The Incorporated Accountants' Journal.

THE OFFICIAL ORGAN OF

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Letters for the Editors to be forwarded to them, care of the Secretary, as above. Correspondence, copies of reports and accounts, &c., will be welcomed from the profession.

Contents.

Professional Notes.

SIR JAMES MARTIN, F.S.A.A., arrived in London on November 28th on completion of his visit to South Africa which he undertook, accompanied by Lady Martin, in connection with the Eleventh Congress of the Federation of Chambers of Commerce of the British Empire. The delegates to the Congress have travelled some 18,000 miles, and more than one-third of the distance has been by land, principally over the South African railway system, under the auspices of the Union Government, whose hospitality, together with that of the South African Association of Chambers of Commerce, rendered such an extended organised tour possible.

The business meeting of the Congress was opened at Cape Town by the Governor-General (The Earl of Athlone), and was presided over by Lord Kylsant. It required four days' sittings to discuss the resolutions on the agenda paper, the most interesting of which from a purely professional point of view being the proposal put forward by Sir James Martin on behalf of the Executive Committee of the Federation to approve the printed report of the Special Committee set up by the Federation in 1924 to study the facilities and legal sanctions respecting commercial arbitration existing in the various parts of the Empire. This report was unanimously adopted by the Congress, and it will be a satisfaction to the profession that Sir James Martin, who was a member of the Lord Chancellor's Committee on Arbitration, has been able to carry this important work a step further.

As indicated in another column, Sir James Martin took the opportunity afforded by his visit to meet the members of the profession in South Africa, especially the Incorporated Accountants practising in the Union. In renewing personal contact with the Society's own Committees and with many of the leading members of the South African Societies Sir James received a welcome the cordiality of which was beyond doubt. We feel assured that the visit of Sir James Martin, following that of Mr. Pitt, will consolidate the interests of Incorporated Accountants and will also tend to promote goodwill between all sections of the profession in the Union and Rhodesia.

In his Presidential Address at the Incorporated Accountants' Conference at Manchester, Mr. Keens, in dealing with the professional position in South Africa, said :—"I understand that, outside the Act, a private agreement has been made to take into the Cape Society of Accountants all persons who claim to be in the accountancy profession. My advices lead me to believe that these admissions will be made on an extremely liberal basis, so far as professional qualifications are concerned."

We are informed, on the authority of a prominent member of the Cape Society of Accountants, that persons to be eligible under this arrangement must be practising accountants of not less than ten years standing, but if of less than ten years standing and more than five years in public practice, they can then be admitted after passing the Final Examination of the General Examining Board. There has been no opportunity of submitting this statement to Mr. Keens, but we feel sure that we are anticipating

his wishes in publishing it at the earliest possible moment.

The codification of the law relating to Income Tax is about to be undertaken. The latest announcement is that the Treasury has appointed a Committee not only to codify the law, but also to simplify its expression. The Committee consists of Sir F. F. Liddell, K.C.B. (Chairman), Mr. A. M. Bremner, Sir W. M. Graham Harrison, K.C.B., Mr. R. P. Hills, Mr. E. M. Konstam, C.B.E., K.C., and Sir John Shaw. Sir F. F. Liddell is First Parliamentary Counsel to the Treasury, and Sir William Graham Harrison is Second Parliamentary Counsel. Mr. Konstam, who was in the Indian Civil Service from 1890 to 1902, is the author of text books on income tax, and Mr. Bremner and Mr. Hills are both Counsel of wide experience in taxation matters.

It appears also that the Inland Revenue has commenced to give effect to the system of centralised collection of income tax which was foreshadowed in the last Finance Act, the object of which is to avoid a number of assessments being made upon a single taxpayer for separate parts of his income derived from different districts. Apparently some difficulty will arise by reason of the fact that the collectors are in some cases appointed by the District Commissioners and in other cases by the Board of Inland Revenue. Southampton has been chosen for making a start on account of the fact that nearly all the collectors there have been appointed by the Inland Revenue.

The latest feature of insurance was disclosed in the arrangements recently announced for the merger of the interests of Vickers and Armstrongs. In order to insure to the new company a minimum profit for the earlier years it is stated that a well known insurance company has guaranteed that during the first five years it will pay a sum not exceeding £200,000 each year if the profit of the company does not exceed a specified figure. This, however, is supplemented by a further condition that the amount so paid during those five years shall be recoverable with interest during the next fifteen years, by the company allocating 40 per cent. of its profits in excess of the minimum figure. The insurance company appears to be confident that during those fifteen years the profits will exceed the minimum, as otherwise it will be the loser. In view of the unforeseen events that may occur during the next twenty years the insurance company's risk seems rather a sporting one. We do not, of course, know the rate of premium.

It was announced by the Prime Minister in the House of Commons last month, that in view of the state of Parliamentary business it would not be possible to proceed with the Companies Bill this session. It must therefore be well through the year 1928 before the new legislation can become operative.

In reply to a question in the House of Commons Mr. Churchill stated that the total amount of Corporation Profits Tax in assessment but unpaid at the end of October last was approximately £7,800,000. To a further inquiry as to what steps were being taken to collect this money, the Chancellor replied: "All the resources of civilisation are being employed."

The Australian Government is apparently finding that the laws at present in force in the Commonwealth for the assessment of income tax upon absentee shareholders and debenture holders is having an effect that was hardly anticipated. The responsibilities placed upon companies is preventing them from seeking to raise capital outside the Australian Continent. An amending Bill has accordingly been introduced in the House of Representatives by the Treasurer, Dr. Page, with the object of attracting capital to Australia by investment in the shares and debentures of companies carrying on business there. It is proposed to abolish the special tax on companies in respect of interest paid to absentee debenture holders, and also to abolish the liability of a company to pay the income tax of an absentee shareholder in cases where the operation of the law prevents the company from recovering the tax from the shareholder.

In connection with the decision which we publish this month on the basis of remuneration of liquidators in voluntary liquidations, it should be borne in mind that this applies only in cases where the fixing of the remuneration is left to the Court. It is usually done by resolution of the Company.

The Court of Appeal has rejected the claim of the Crown in the case of *Dale* (*Inspector of Taxes*) v. *Mitcalfe*, and affirmed the decision of Mr. Justice Rowlatt. The effect of that decision was that the words of sect. 25 of the Income Tax Act, 1918, which give relief in cases where money has been accumulating for the benefit of any person contingently upon attaining a given age or marrying, were applicable notwithstanding that the accumulated income was added to the corpus of the estate and the beneficiary received only the interest upon it. As explained in our notes of June last the decision turned upon the interpretation to be placed upon the expression "for the benefit of any person." Their Lordships agreed with Mr. Justice Rowlatt that income could accumulate for the benefit of a person even though added to the corpus,

and pointed out that if the Crown's interpretation were adopted there would be a marked differentiation between the shares of sons and the shares of daughters, because in many settlements the shares of sons were payable to them at the age of 21, while the shares of daughters were, in their own interests, settled upon further trusts. In such a case the anomaly would arise that the sons could recover tax, but the daughters could not.

Another case which came before the Court of Appeal (*Inland Revenue Commissioners* v. *Yorkshire Agricultural Society*) is of interest chiefly as indicating what is regarded as a society "established for charitable purposes only." The Special Commissioners decided in favour of the society, but their decision was reversed by Mr. Justice Rowlatt on the ground that the objects of the society were partly for the benefit of the members only. The Appeal Court have refused to accept this view and have reinstated the decision of the Special Commissioners, their main ground being that the point at issue was a question of fact and that there was evidence to support the finding of the Commissioners. The question of how far the society was established for charitable purposes was one of degree, and a question of degree was a question of fact.

The members of the society were entitled to certain privileges, but it was pointed out that subscribers to other charities, such as hospitals, also enjoyed privileges such as that of introducing patients. The object for which the society was formed was to hold an annual meeting for the exhibition of farming stock, implements, &c., and for the general promotion of agriculture. Another object was added in 1923, namely that of watching and advising on legislation affecting the agricultural industry. The Court considered that the society had been formed for the general improvement of agriculture and not merely for the special benefit of its members in the county where it was established. It was therefore a society for the general benefit of the community and came within the definition of a charity laid down by Lord Macnaghten in *Income Tax Commissioners* v. *Pemsel* in 1891, which was always regarded as authoritative. The definition referred to was as follows: "'Charity' in its legal sense comprises four principal divisions: trusts for the relief of poverty; trusts for the advancement of education; trusts for the advancement of religion; and trusts for other purposes beneficial to the community, not falling under any of the preceding heads."

Another feature of the "charity" question came before Mr. Justice Rowlatt the other day in *Royal Antediluvian Order of Buffaloes* v. *Owens* (*Inspector of Taxes*), when it was held that a Convalescent Home which was not a public institution and had no trust providing for continuity, was nevertheless a hospital within the meaning of Rule 1 (*c*) of No. VI of Schedule A, and entitled to be treated as such for taxation purposes.

The Executive Council of the National Federation of Dividing Friendly Societies is evidently concerned as to the number of slate clubs which fail to meet their obligations when the Christmas division takes place, and points out that it admits no society or club to its organisation without examining its rules and accounts and seeing that provision is made for the proper conduct of its affairs. This may be so, but as it is admitted that the Federation does not include more than a proportion of the sharing-out societies and clubs, there still remains the question of the organisation of those outside, which, judging by the defalcations disclosed year by year, are certainly in many cases very loosely controlled.

The Federation complains of a falling off in the attendance of members at the business meetings of friendly societies, and that those who do attend and take part in the election of officials are influenced by "talkers." It is added that "the ability to talk often covers incompetence in other directions which is far more important from the standpoint of good and efficient administration." We entirely agree with this comment which lies at the root of much of the trouble.

A point which has been in dispute with the Inland Revenue Authorities for some time past has now been settled by the decision of Mr. Justice Rowlatt in the case of *Monks* (*Inspector of Taxes*) v. *Executors of Sir G. W. Fox*. In this case Victory Bonds had been surrendered in part payment of estate duty, and the Inland Revenue authorities claimed income tax upon the interest which had accrued on these bonds from the date of the last payment of interest up to the date of transfer. It has been held, however, that sect. 34 of the Finance Act, 1917, and sect. 42 of the Finance Act, 1918, merely operate to place the executors in the same position as if they had sold the stock in the usual way, and that accordingly the interest is not assessable to income tax in the hands of the executors.

The House of Lords has dismissed the appeals in the cases of *Tarn* v. *Scanlan (Inspector of Taxes)* and *Nielsen Anderson & Co.* v. *Collins (Inspector of Taxes)*. Both of these cases related to the liability of a foreign company to be assessed to income tax in the names of agents resident in this country. The company concerned was a Danish steamship company.

In the first case the Lord Chancellor said the only question to be determined was whether the agents were "authorised persons carrying on the regular agency of the company." The Commissioners held that they were, and upon the facts he could see no reason for questioning their decision. He thought it was clear that the agents actually carried on the business and entered into the contracts for the carriage of the goods even though the bills of lading were signed by their clerk "for the master" of the vessel. The considerations in the second case, which related to the same Danish company, he regarded as similar. In both cases, therefore, the agents were held liable to be assessed on behalf of their foreign principals.

Two important points emerged in the decision of the Court of Appeal in the case of *Pickford* v. *Quirke*. The first related to the time when an assessment is deemed to be made. In this case the Additional Commissioners signed the book containing an estimated assessment for the year 1919/20 on March 24th, 1923, but the book was not delivered to the General Commissioners until April 18th, and notice was not given to the appellant until May 5th in the same year. It will thus be observed that the only date which was within the three years limit was the date of the signing of the book, and the Court decided that this was the crucial factor and that the subsequent steps were not required to be taken before the three years had expired.

The second point in the case raised the question: When does a capital profit become a trading profit? Apparently the appellant had, during the boom in the Lancashire cotton trade in 1919, bought and sold certain cotton mills and had been assessed on the profit derived therefrom. His contention was that these were capital profits and therefore not assessable, but the Court decided otherwise. The Master of the Rolls, in giving judgment, said there might be an isolated transaction of this character that did not give any indication that a trade was being carried on. When, however, one came to look at four successive transactions of the same kind, one might properly draw quite a different inference from those incidents taken together. The Special Commissioners found that the question was one of degree, and he thought they were right. If it was a question of degree it was a question of fact, and the matter was determined by their conclusion on the facts. The appeal was accordingly dismissed. It will be observed that there was no question of a single transaction of the character indicated being anything else than a capital transaction. It was only the succession of dealings that constituted a trade or business.

The November number of the *Journal of Accountancy*, New York, contains a rather amusing comment upon the papers read at the recent annual meeting of the American Institute of Accountants—one on "Accountants' Limitations," by Mr. R. F. Montgomery, and the other on "What is the matter with Accounting?" by Mr. H. R. Hatfield. The Editor says it is salutary to remember that even the accountant is not yet divine—that he still has something to learn and to do—and that those who listened to the papers referred to must be strangely obdurate if they still believe that accountancy is not in a bad way. Continuing, he says: "The two speakers approached their subjects from different points of the compass, but their conclusions were not far apart. Accountancy, it appears, is a fairly healthy child, but rather dull and unresponsive at times. He prefers to play with old toys and does not take readily to instructive and ingenious devices which would serve to amuse and at the same time to encourage invention. In fact, he is a somewhat stupid child, and something must be done about it if he is to grow up to be a credit to the family. This is all very well, no doubt. If a child does not make the most of his opportunities it is quite right to tell him that he is a disgrace to the family, and that if he does not reform he will fill a drunkard's grave or adorn a gibbet, or accomplish some other form of descent to a dishonoured end. But, having told him all that, it is generally considered wise parental policy to give him a word of encouragement to show that the evil fate may yet be averted. And so we hope that next year the Institute will tell its members how to avoid the depths of Avernus and, after constructive suggestions, point out one or two merits, if they can be found."

Wills and Powers of Appointment.

A POWER of appointment is either a power of original disposition or a power to revoke an existing disposition and make a new one. Powers of appointment are generally but not exactly divided into two classes, general and special, the essence of a general power being that the donee of the power can appoint to whomsoever he pleases. A general devise or bequest of realty or personalty, or of realty and personalty, described in a general manner, operates, unless a contrary intention appears by the will, as an execution of any general power of appointment capable of being exercised by will even though such power is contingent.

If a testator disposes of all property over which he has "any power of disposition by will," this

operates as an exercise of a general power of appointment by will and also operates as an exercise of a general power conferred on the testator after the date of the will.

In *re Doherty-Waterhouse* (1918) 2 Ch., 269) testatrix bequeathed all her stock in a certain undertaking to a named legatee and bequeathed all her real estate and all the residue of her personal estate, including any property over which she might have an absolute power of appointment, to trustees upon trusts therein declared. At the dates of her will and death the testatrix was the absolute owner of a sum of £111 8s. 5d. of the stock in question, and had a general testamentary power of appointment over the sum of £550 of the same stock. It was held (1) that the gift was a "bequest of personal property described in a general manner" within the meaning of sect. 27 of the Wills Act, 1837, and operated as an execution of the general power over the sum of £550 stock; (2) that there was no "contrary intention" appearing by the will within the meaning of the same section.

Under her father's will a testatrix had a general power of appointment in default of issue over the capital and income of a trust fund, and also a special power of appointment notwithstanding coverture over the income of the same fund in favour of her husband for life. By her will made in exercise of the special power and of "every power enabling her in that behalf" she appointed the income of the trust fund to her husband for life, and then devised and bequeathed "all her estate and effects whatsoever and wheresoever" to trustees upon trust to pay the proceeds and annual income to her husband for life, and after his decease and that of her sister, to divide the capital and income between her two brothers. It was held that as the subject matter of each appointment was not necessarily the same, and as, under the circumstances, there was no inconsistency between the two parts of the will by reason of a double gift of a life interest to the husband, there had been no such expression of a contrary intention within sect. 27 of the Wills Act, 1837, as to defeat the gift of the residue, and the will was a good exercise by the testatrix of the general power of appointment under her father's will. (In *re Stokes* (1922) 2 Ch., 406.)

In order to exercise a special power of appointment there must be a sufficient expression or indication of intention in the will or other instrument alleged to exercise it, and either a reference to the power or a reference to the property subject to the power, constitutes in general a sufficient indication for the purpose. Where, however, two powers exist in reference to the same property it may well be that a reference to the property will not indicate any intention to exercise more than one of the powers. In *re Ackerley* (1913) 1 Ch., 510), testatrix, by her will, proved in 1909, gave one moiety of her residuary estate in trust for her daughter, with a direction that the income thereof was to be held in trust for her daughter during her life, and after her death the capital thereof was to be held, subject to the appointment of any life interest to any future husband of her daughter as thereinafter mentioned, upon trust for the children of the daughter living at her death who, being sons, should attain 21, or, being daughters, should attain that age or marry, with a provision that if no child should attain a vested interest, the share should be held in trust absolutely for such persons as the daughter should by will appoint, and in default of appointment for the testatrix's son; and the testatrix thereby empowered her daughter by deed or will to appoint for the benefit of any future husband who might survive her, during his life or any less period, all or any part of the income of her share. The daughter's first husband died in 1910, the only issue of that marriage being a daughter, who was born in 1898. In the year 1910 the testatrix's daughter married A.C., her second husband. She died in 1912, having made a will whereby she appointed A.C. guardian of her infant daughter and proceeded: "I give, devise, appoint and bequeath, all my estate, property and effects, whatsoever and wheresoever, both real and personal, which I have power to dispose of by my will, to my said husband, A.C., absolutely, and I appoint A.C. sole executor of this my will." It was held that the daughter's will executed the special power of appointing the income of her share in favour of her second husband during his life.

A power of appointment requires, as a rule, for its exercise some general formal expression of intention, although it may be created by informal words such as words giving a power of settling or disposing of property in a certain way. But vague words will not create a power if such construction is inconsistent with the general scheme of the settlement containing them. A power to appoint without saying in what manner, or a power to appoint by writing or by deed or otherwise, authorises an appointment by will. If a power is exerciseable by any writing executed by the donee in the presence of two witnesses and he executes a document of a testamentary character, this is a writing in the nature of a will in exercise of a power within the definition contained in sect. 1 of the Wills Act, 1837, and must comply with the requirements of sect. 9 as to being in writing and signed in the presence of two witnesses.

The general principle is that a power given to a designated person to be exercised upon a contingency, can be executed before the contingency happens, *e.g.*, a woman who has a power in the event of her

marriage can exercise it before the marriage. If a power is limited to arise upon a subsequent event which does not happen, the power is not exerciseable.

Sect. 10 of the Wills Act, 1837, provides that no appointment made by will, in exercise of any power, shall be valid unless the same be executed in manner hereinbefore required, and every will executed in manner hereinbefore required shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding it shall have been expressly required that a will made in exercise of such power should be executed with some additional or other form of execution or solemnity.

An intention to execute a general power may be express or implied, and, in the absence of an express exercise or intention to exercise a power, may be inferred from a reference to the power itself in a preceding part of the will. Where a testator makes a will purporting to execute a power and the power proves to be invalid, or to have been destroyed or not to have arisen, then if the testator has an interest in the property it will cure the defect in the appointment. A power given by will can be revoked by codicil or by a subsequent will.

A will exercising a power of appointment is not revoked by the testator's subsequent marriage unless the persons to take in default of appointment take in the capacity of the testator's heir, executor or administrator, or of persons entitled to succeed under the Administration of Estates Act, 1925, sects. 46 and 47. The reason for this is that the new family of the testator can derive no benefit from such revocation because revocation of the appointment only operates in favour of those entitled to take in default of appointment. In *re Barker's Settlement* (1920) 1 Ch., 527), under a voluntary settlement made in 1881, a fund was settled upon trust for the testatrix for life with remainder, in the events which happened, in trust for other persons therein named. The settlement reserved a power for the testatrix with the consent of the trustees of the settlement by deed or will expressly referring to the power to revoke the trusts of the settlement, and to declare other trusts thereof for her own benefit. By deeds in 1906 and 1909 the testatrix, with the consent of the trustees, exercised her power of revoking the trusts as to two sums, parts of the settled fund, and appointed those sums in her own favour. She died in 1918, having made a will in 1914 without the consent of the trustees, by which she gave, devised, bequeathed, and appointed all her residuary estate, both real and personal, to trustees upon trust for sale and conversion and declared trusts of the proceeds thereof. She had no other power of appointment. It was held that on the true construction of the settlement the consent of the trustees was not required for the exercise of an appointment by will; that the words of the will were sufficient to effectuate the double process of revocation and new appointment; that they contained a sufficient express reference to the power within the language of the settlement, and that the remaining balance of the settled fund therefore passed under the appointment contained in the will.

The term "lapse" applies to the failure of a testamentary gift owing to the death of the devisee or legatee in the testator's lifetime whether before or after the date of the will. As a rule a devisee or legatee must survive the testator in order that he or his estate may have the benefit of the gift. This doctrine of lapse applies to power created by will, and a power of appointment fails if the testator survives the donee of the power, but the death of the donee of a power prior to the testator does not cause the interest of persons taking in default of appointment to lapse. A gift under a general power of appointment to a child predeceasing the testator, and leaving issue, is preserved from lapse, but not a gift under a special power.

Income Tax on Accumulated Income.

THE decision by the Court of Appeal in the case of *Dale* v. *Mitcalfe* invites consideration. It was an appeal by the Crown, and now successive decisions have been given against the Crown by the General Commissioners, Mr. Justice Rowlatt, and the Court of Appeal. The latter Court was unanimous; also the Judges were very clear, for, though the appeal had been argued by the Attorney-General, no reply was called for. It was really a test case and applicable to circumstances which are very common, so its interest and importance are all the greater.

There is no doubt that much income tax is lost, without refund, owing to the operation of trusts. One instance is that of trustees carrying on a business, for there the earned income relief is lost because the trustees are the traders, but the income is not beneficially theirs; and the beneficiaries, who benefit by the profits, are not personally engaged in carrying on the business. Another instance is where (without any accumulation) certain income, such as mineral royalties, are under trust to be capitalised. Sect. 25 of the Income Tax Act, 1918, was passed in order to give relief in a third class of case, namely, where there is a trust for accumulation, in whole or in part, till a certain or uncertain future date. It will not do to go beyond that in stating this third case, for the recent case shows that to do so

would lead one into the position of either mis-stating the legislative intention or begging the question. In any event the remedy enacted was limited to cases of uncertain accumulation periods.

What the enactment says is that, when there is a trust for accumulation of income for the benefit of any person contingently on his attaining some specified age or marrying, relief from tax on the accumulated income may (within the ordinary relief limits) be obtained by that person on his claiming within three (now six) years after the end of the year of assessment in which the contingency happens.

It will be observed that the contingency must happen, and from the nature of the specified contingency it follows that the "person" must be then alive. But observe also that it does not say that the "person" must have received, or be entitled to receive, payment of the accumulations of income. And the whole point of the recent case is that the claim to this relief is good though the claimant is not entitled to payment of the accumulated income. This turns on the condition in the section which is, not that the income shall be accumulated "for," but "for the benefit of," that person. This involves repayment of tax to a claimant on income which is not his. But as to that, it has been held that, even when the claimant is, under the terms of the trust, entitled to payment of the accumulations, he receives them, not as income, but as capital.

Whatever may have been the real intention when the section was passed, there is no denying that payment over absolutely is not the only "benefit" which a person may have from money which trustees hold. For instance, a testator might direct accumulation for a time in order to secure that, from the close of that time, a beneficiary's income from the estate should be not less than a specified sum per annum, the trustees being entitled to encroach on the accumulations to supplement any deficiency in any year. In that way the beneficiary might receive payment of part or even the whole of the accumulations. But there may be benefit though no part of the accumulations can ever be received. For instance, the accumulations may be ordered to go to augment a capital fund in which the beneficiary is to have a life interest. Without the accumulations the fund might have been £3,000; with the accumulations it may be £4,000. Therefore any beneficiary who is to receive, and be restricted to, the income of the whole fund benefits by the accumulation to the extent of £40 or £50 a year. The Act postulates "benefit," but only in the widest and most general manner; there is nothing said about payment out, or about capital or income, or on the head of either quantity or quality of the "benefit."

The actual case was of the nature last indicated. A trust fund was to be held for the settlor's children; provisions for maintenance and education; balance of income to be accumulated and added to capital; sons' shares vesting and payable on majority; daughters' shares vesting on majority or marriage, but to be retained in trust for each daughter for life, the capital being carried over for her children (the settlor's grandchildren) on trusts which are not set out in the report of the case. A daughter on attaining majority claimed a refund of tax by virtue of sect. 25 of the 1918 Act. It was refused by the Inspector of Taxes on the ground that the section can never apply unless the claimant is entitled to absolute payment of the accumulations, whereas this lady was to receive merely the future income of them for her life. On appeals the lady's claim has been three times sustained because the accumulation has been for her "benefit."

This decision is welcome, but also it makes one think. What it lays down is that the benefit which will support a claim need not be an exclusive benefit in the accumulations. Once that is grasped, it suggests itself that some other person, who has the balance of the benefit, may be able to duplicate the claim in respect of the same accumulations. Suppose that, after directing accumulations during minority, the trusts were "for my daughter A, contingent on majority, but only for life, and thereafter (A might be of unsound mind) for my other daughter B, contingent on death or marriage, absolutely." The recent decision proves that A on majority, say in 1927, could claim tax relief on the accumulations. Then A dies in 1927, and B, who also attained majority in that year, comes in absolutely. Clearly B also benefits from the accumulations. It sounds, and it may be, absurd that there should be two refunds on the same accumulations, but what is the answer to B's claim?

Society of Incorporated Accountants and Auditors.

COUNCIL MEETING.

A meeting of the Council was held in the Council Chamber, 50, Gresham Street, London, E.C., on Thursday, November 17th, 1927, when there were present:—Mr. Thomas Keens (President), in the chair; Mr. Henry Morgan (Vice-President); Mr. W. Bateson (Blackpool), Mr. H. J. Burgess (London), Mr. W. Claridge, M.A., J.P. (Bradford), Mr. Arthur Collins (London), Mr. E. Cassleton Elliott (London), Mr. Walter Holman (London), Mr. Ernest T. Kerr (Birmingham), Mr. Richard Leyshon (Cardiff), Mr. C. Hewetson Nelson, J.P. (Liverpool), Mr. James Paterson (Greenock), Mr. W. H. Payne (London), Mr. W. Paynter (London), Mr. Arthur E. Piggott (Manchester), Mr. G. S. Pitt (London), Mr. J. Stewart Seggie (Edinburgh), Mr. Alan Standing (Liverpool), Mr. Percy Toothill (Sheffield), Mr. F. Walmsley, J.P. (Manchester),

Mr. R. T. Warwick (West Hartlepool), Mr. E. W. C. Whittaker J.P. (Southampton), Mr. W. McIntosh Whyte (London), Mr. A. E. Woodington (London), Mr. A. A. Garrett, B.A., B.Sc. (Secretary), and Mr. J. R. W. Alexander, M.A., LL.B. (Parliamentary Secretary).

Apologies for non-attendance were received from Sir Charles H. Wilson, M.P., LL.D. (Leeds), Sir James Martin, J.P. (London), Mr. D. E. Campbell (Wolverhampton), Mr. Richard Smith (Newcastle-on-Tyne), Mr. A. H. Walkey (Dublin), and Mr. F. Ogden Whiteley, O.B.E. (Bradford).

REPORTS OF COMMITTEES.

The Council received the reports of the following Committees:—

Finance and General Purposes Committee,
Examination and Membership Committee,
Board of Examiners,
Building Committee, and
Special Committees.

DEATHS.

The Secretary reported the death of the following members:—Mr. William Blair (Fellow), Greenock; Mr. Frederick Hugh Burnett, M.C. (Associate), Southampton; Mr. John Robert Cholmeley (Fellow), London; Mr. Thomas Coombs (Fellow), Leeds; Mr. Martin Laverick (Fellow), Sunderland; Mr. William Archibald Meyer (Associate), Newcastle-on-Tyne; Mr. Edward Judson Mills (Fellow), London; Mr. Fred Taylor (Associate), Bristol; Mr. Charles Walmsley (Fellow), London; Mr. Edward Richard Williams (Associate), Liverpool.

Other important matters were discussed, and the business of the meeting not having been completed it was adjourned to December 16th.

SPECIAL COUNCIL MEETING.

A meeting of the Council was held in the Council Chamber, 50, Gresham Street, London, E.C., on Tuesday, November 1st, 1927, when there were present:—Mr. Thomas Keens (President), in the chair; Mr. H. J. Burgess (London), Mr. E. Cassleton Elliott (London), Mr. Walter Holman (London), Mr. C. Hewetson Nelson, J.P. (Liverpool), Mr. W. H. Payne (London), Mr. W. Paynter (London), Mr. G. S. Pitt (London), Mr. J. Stewart Seggie (Edinburgh), Mr. R. T. Warwick (West Hartlepool), Mr. A. E. Woodington (London), Mr. A. A. Garrett, B.A., B.Sc. (Secretary), and Mr. J. R. W. Alexander, M.A., LL.B. (Parliamentary Secretary).

Apologies for non-attendance were received from Sir Charles H. Wilson, M.P., LL.D. (Leeds), Mr. E. T. Kerr (Birmingham), Mr. J. Paterson (Greenock), Mr. Arthur E. Piggott (Manchester), Mr. Percy Toothill (Sheffield), Mr. Alan Standing (Liverpool), Mr. A. H. Walkey (Dublin), and Mr. F. Walmsley, J.P. (Manchester).

ELECTIONS TO MEMBERSHIP.

The Council considered a number of applications and made elections to membership.

Professional Appointment.

Mr. A. J. Magennis, F.S.A.A., Senior Partner, A. J. Magennis & Co., 50, South Mall, Cork, has been appointed by the Senate of the National University of Ireland Professor of Accounting and Business Administration, University College, Cork.

SIR JAMES MARTIN IN SOUTH AFRICA.

The wonderful tour connected with the recent Congress of Chambers of Commerce of the British Empire has enabled Sir James Martin to meet a large number of the leading men throughout South Africa and Rhodesia, and also to renew and enlarge his friendship with Incorporated Accountants and the profession generally in the Union. Thirty-three years have passed since Sir James made a tour of what then constituted Cape Colony, Natal, the Transvaal and the Orange Free State, the two former being British Colonies and the two latter Boer Republics, Rhodesia at that time being only in the making. The events which have led up to the consolidation of the Union, and the establishment of the Governments of Northern and Southern Rhodesia are well known and need not be enlarged upon here. The growth of South Africa in commercial importance has led to a corresponding growth in the professional work and standing of accountants, many of whom have settled in the country from Great Britain, while an increasing number are of South African birth. In the development of the profession, the Society has played a consistent part since the appointment of a South African Committee in the beginning of 1895. The first Secretary of this Committee was the late Mr. Harry Gibson, F.S.A.A., and a gratifying incident in Sir James Martin's arrival at Cape Town was a cordial greeting on board the mail steamer by a deputation of Incorporated Accountants which comprised Mr. Cyril Gibson, F.S.A.A., son of the late Mr. Harry Gibson, and Mr. Philip Salisbury, F.S.A.A., one of the oldest practitioners in the Union. Radio telegrams of welcome from other well known Incorporated Accountants were received by Sir James at sea some days before his arrival.

The heavy programme prepared by the South African Association of Chambers of Commerce for the business of the Congress and for the entertainment of the visitors precluded Sir James from attending any professional gathering until his arrival at Johannesburg, when Saturday, October 22nd, was set aside for a meeting of Incorporated Accountants, the arrangements for which were made by the Hon. Secretary, Mr. D. P. C. Blair, F.S.A.A., who was on the platform when the special train in which Sir James and Lady Martin travelled arrived at Johannesburg station.

This meeting was attended by an influential gathering of most of the leading practitioners on the Rand. Mr. Aubrey L. Palmer, F.S.A.A., occupied the chair, and welcomed Sir James to the city. Other speakers were Mr. C. Hewitt, F.S.A.A., Mr. M. Dreyer, F.S.A.A., Mr. L. P. Kent, F.S.A.A., Mr. Alex. Aiken, F.S.A.A., Mr. S. C. Carruthers, C.A., F.S.A.A., and Mr. M. Edmund, F.S.A.A. Sir James Martin expressed his deep indebtedness for the cordial reception accorded to him, and after discussing the situation as placed before the meeting, undertook to bring the views of the members before the Council of the Society. Subsequently, Sir James was entertained at luncheon by Mr. Palmer and the members of the Committee.

Upon reaching Pietermaritzburg, Natal, two days later it was found that the engagements of the Congress Delegates were so heavy that it would be impossible for Sir James Martin to endeavour to meet the members of the profession practising there, but through the kindness of the Hon. Sir George Plowman, the Administrator of the Province, Sir James was motored to St. Saviour's Cathedral to inspect the Memorial erected by the Society shortly after the close of the Boer War to the late Major Charles Edward Taunton, F.S.A.A. It was satisfactory to note that the memorial brass

was in a very good condition. Sir George Plowman also took Sir James to the Pietermaritzburg Club where the portrait of the late Major Taunton occupies a place of honour.

On arrival at Durban Sir James was received by Mr. Douglas Mackeurtan, F.S.A.A., and Mr. E. S. Crosoer, F.S.A.A., and the President of the Natal Society of Accountants, Mr. H. L. Crockett, immediately called upon him with an invitation to meet some of the leading Natal practitioners at luncheon at the Durban Club. Fortunately, Sir James was able to avail himself of Mr. Crockett's hospitality, and a pleasant gathering was held in his honour where many useful views were exchanged.

One of the next cities of importance to be visited by the delegates was Bloemfontein, the capital of the Orange Free State, where Sir James Martin had an interview with the Mayor, Mr. Leslie Deane, F.S.A.A., and the Secretary of the Chamber of Commerce, Mr. George Smetham, F.S.A.A. As the delegates were the guests of the Mayor and the Chamber of Commerce throughout their short stay it was not possible to have any formal meeting of Incorporated Accountants.

Upon the return of Sir James to Cape Town, on November 7th, he met the members of the Society's South African (Western) Committee, all of whom were present at the meeting, which was presided over by the Chairman, Sir Harry Hands, K.B.E. Interchange of views took place and matters affecting the interests of the profession in South Africa and also with regard to the position of the Society in the Union were considered.

On the evening of the same day, Sir James Martin was entertained at dinner by the Incorporated Accountants at the Cape. Sir Harry Hands presided over a large gathering. Sir James received an enthusiastic reception upon rising to respond to the toast of his health, which was submitted by the Chairman. Other speakers included the President of the Cape Society (Mr. N. S. Wood), Mr. Cyril Gibson, F.S.A.A., and Mr. James Douglas, O.B.E., C.A., F.S.A.A.

On November 8th, Sir James and Lady Martin were entertained to luncheon at the Legislative Assembly at Cape Town by Mr. W. J. O'Brien, M.L.A., O.B.E., F.S.A.A., when some well known members of South African society were invited to meet them. The luncheon was full of interest, as the Senate and the Assembly were both in session.

When Sir James and Lady Martin sailed for home on November 11th they were seen off at Cape Town Docks by a numerous body of friends including Mr. and Mrs. Cyril Gibson and Mr. James Douglas.

It is interesting to record that Mr. F. W. Diamond, F.S.A.A., the only surviving member of the original South African Committee, was present to greet Sir James Martin at the Johannesburg meeting.

Obituary.

WILLIAM ARTHUR TURNER.

We much regret to announce the death of Mr. William Arthur Turner, Bradford, at the early age of 49. Mr. Turner was originally elected a member of the Society in 1899, and was a partner in the firm of W. A. Turner & Co., Incorporated Accountants, Bradford. Mr. Turner held a number of important professional appointments in Yorkshire, and was one of the founders of the Bradford and District Society of Incorporated Accountants, in whose early work he took considerable interest. Mr. Turner was a member of the West Riding County Council, and was interested in a number of social and charitable activities in Bradford.

SUPER TAX AND LIMITED LIABILITY COMPANIES.

The Secretary of the Association of British Chambers of Commerce has addressed the following letter to the Chambers of Commerce throughout the country, enclosing the annexed memorandum prepared by the Finance and Taxation Committee of the Association:—

Dear Sir,—I am desired by the Chairman of the Finance and Taxation Committee (Sir Edward Iliffe, C.B.E., M.P.), to inform you that the Finance Committee of this Association is giving close attention to the provisions of Clause 31 of the Finance Act, 1927, in regard to limited liability companies and super tax, and I have been instructed to ask all the Chambers affiliated to the Association to consider this question and to communicate their views to me for the guidance of the Committee and the Council.

It will be remembered that when these clauses were debated in the House of Commons, the Chancellor of the Exchequer stated that if alternative proposals were submitted to him, which would have the effect of preventing the evasion of super tax and at the same time cause less misgiving in the minds of those engaged in legitimate trade enterprise, he would be glad to examine such proposals and, if practicable, to adopt them. Your Council feels that the Association should respond to this invitation.

In order to enable those Chambers which have not studied the matter carefully to appreciate the present position, a memorandum has been prepared, a copy of which I enclose herewith.

Before the present Bill became law, the chairman of the Finance and Taxation Committee of the Association wrote to Mr. Churchill and informed him that, in the opinion of this Association, profits reserved purely for the purpose of maintaining or developing an industrial enterprise should not be subjected to super tax, as profits so utilised must benefit every section of the community. This contention was admitted by the Chancellor to be reasonable, and indeed he subsequently stated in the House of Commons that profits so utilised would not render a private company or its shareholders liable to super tax.

It is felt, however, that the position should be made abundantly clear and that the clauses of the Finance Act which relate to super tax and private companies should deal solely with the wrongful disposal of profits.

If a part of the undistributed profits made by a company is loaned to directors or returned to them in any form other than by way of dividend, then it is quite obvious that such profit is not being used for the maintenance and development of the business and should therefore be subject to super tax. If, on the other hand, the profits are actually used for the maintenance and development of the business, even although a large profit is made and no dividend is paid, that company, in the interests of the community at large, should be encouraged to employ its profits in that way and should not be liable to super tax.

It may well follow, too, that a company may desire to accumulate profits in order to finance an extension of the business at some future date, and this also is an enterprise which the Government should encourage. If, however, after accumulating funds, the company does not carry out its contemplated development but goes into voluntary liquidation and distributes its assets to its shareholders, it is clea that those shareholders should not be in a better position than

would have been the case had the profits been distributed by way of dividend.

If, therefore, the principle already referred to is carried out, it would be necessary, in the event of the liquidation of any company, for the Chancellor to have the right to charge super tax upon that portion of the assets of the company distributed to the shareholders and which represented the profits made by the company in past years but not used for maintaining and developing the business and not distributed.

In order to carry this out, it may be deemed advisable to require companies to which the section applies to keep two separate reserve funds:—

(1) A capital reserve fund which would consist of profits made on the purchase and sale of assets not liable to taxation and of the premium upon new shares issued at a sum in excess of the par value.

(2) A reserve fund which would be built up purely by the balance of profits made in any year and not actually distributed in the form of dividend.

So long as these latter profits are being utilised, or are intended to be utilised, for the maintenance and development of a business they would not be liable to super tax, though, in the event of those assets being distributed to the shareholders at any time upon the liquidation of the company, that portion of the assets which represents accumulated profits would be regarded as a final dividend (upon which income tax would already have been paid in the normal way) but upon which liability to super tax would attach.

If the "profits reserve fund" were capitalised so that the capital of the company be permanently increased and it was no longer possible for the directors to distribute such profits by way of dividend, it might be well to exempt them from liability to super tax in the event of liquidation provided the transaction took place a certain number of years before the liquidation of the company.

Consideration might also be given to an alternative suggestion which has been made to the effect that provided a prescribed portion of the profits only are reserved, then the company in question should be exempted from the scrutiny imposed by the super tax provisions. If this proposal were adopted it might be necessary to vary the percentage according to the nature of the business carried on by the company. The fact that a concern did not reserve more than the quota agreed would merely exempt that particular business from the super tax provisions, but should a reservation be made in excess of the quota, the directors would then have the right to go before the Board of Referees and show reason why it was necessary for the purpose of maintaining and developing the business, to reserve the amount of profit actually reserved.

The Committee feels it is necessary, in the interests of the community, that small private companies should be encouraged to reserve as large a proportion as possible of their profits for the development and maintenance of their businesses. Many of the large industrial concerns to-day have started business as small private limited liability companies, which may be regarded as the nursery of British industry, and it would be a severe blow to the commerce of the country if these small companies were handicapped at birth.

The Committee therefore hopes that this matter will receive the careful consideration of all affiliated Chambers, and that their views may be submitted at an early date.

Yours faithfully,

R. B. DUNWOODY,
Secretary.

November 16th, 1927.

Memorandum above referred to.

(Prepared by the Finance and Taxation Committee of the Association.)

GENERAL.

The object of the super tax provisions in regard to limited companies is concisely stated in the preamble to sect. 21 of the Finance Act, 1922, as follows:—

> "With a view to preventing the avoidance of the payment of super tax through the withholding from distribution of income of a company which would otherwise be distributed, it is hereby enacted . . . ."

The device usually adopted to avoid super tax is the formation of the "one-man company"; in other words, a company the control of which lies in the hands of one or few persons.

It was stated in the House of Commons that a method of ensuring control is to arrange the voting power so that the vote of the proprietor is equal to all the votes cast against him, plus one.

In many cases the company is formed to buy the business of the proprietor, who is then able to avoid his liability to super tax by transactions which are outside the course of legitimate trade.

In other cases persons who hold control in companies cease to declare dividends, which would be liable to super tax, but receive their portion of the profits by means of a loan not so liable. This loan may also be free of interest and in the course of time the companies, by resolution, either release such persons from their debts or go into voluntary liquidation.

The following hypothetical cases may serve to illustrate the various ways in which avoidance of super tax has been practised.

Individual A has a business worth £250,000 yielding net profits, after the payment of income tax, of £25,000. This profit would also be assessable to super tax for approximately £5,000, leaving the proprietor a final net income of £20,000.

He forms a private company which purchases his business for £300,000, and in satisfaction of the purchase price issues to himself £250,000 in debentures free of interest and redeemable in ten years at the rate of £25,000 per annum and the balance in ordinary shares upon which no interest is paid until the debentures are redeemed.

As this sum of £25,000 now comes into his hands as capital it cannot be charged to super tax, so that, by the formation of the company and by the device illustrated, he is richer than formerly to the extent of £5,000 annually, while the Revenue suffers a decrease to the same extent.

Individual B is in control of a private company which has consistently declared a dividend yielding the shareholder an income of £25,000 (after the payment of tax by the company), on which he would pay super tax amounting approximately to £5,000, leaving him a net income of £20,000.

He decides that, instead of drawing £25,000 by way of dividend, the company shall advance him this £25,000 by way of a loan, free of interest. His receipt of £25,000 now becomes a capital one, not liable to super tax, so that, by borrowing from his company, he has avoided his previous payments of super tax and the Revenue suffers to a corresponding degree.

When the loan in course of time increases to an unwieldy item in his balance-sheet, his company either releases him from the debt or goes into liquidation.

Individual C has investments worth £500,000 yielding him a net income of £25,000, on which he pays approximately

£5,000 of super tax. The £20,000 remaining is devoted as to £5,000 for living expenses and £15,000 for re-investments.

He forms a company to take over his investments, the income from which is now applied in lending C £5,000 for his expenses and in re-investing £20,000 as against the former sum of £15,000. Thus C, by means of a company, is able to avoid any payment for super tax and to direct it into channels more profitable to himself.

The following case was given by the Attorney-General in the debate in the House of Commons on July 4th, 1927. (Official Report, col. 951.)

> "There was another case in which a gentleman who controlled a company, in the month of March of one year capitalised £100,000 of profits, paying practically no dividend, and applied that sum in paying out in full debentures to that amount. The debentures were then issued as a bonus to the shareholders, which was himself, in the month of March, and in the following month of May, so as to get into another income tax year, the debentures were redeemed at par. It was said that this gentleman had received no income; that he had in the first year received merely a capitalised sum which the company had validly capitalised, and that he had in the second year merely received payment of a capital debt owing by the company to him."

During the same debate Mr. Churchill also quoted some actual and authentic cases. (Official Report, col. 895.)

> "Let me show a few cases of the kind with which we think it our duty to deal. The first case is that of a firm of manufacturers. In one year this company made a profit of £75,000 and paid dividends to the extent of £3,300. The two people in control of the company drew in that year £33,000 in so-called loans, on which no interest was payable. The second case is that of a textile company. The profits were £66,000. The dividends amounted to £6,900. The controlling shareholder drew out by way of loan £19,000 free of super tax. In the previous year he drew out £54,000 by way of loan, free of super tax. The third case was one of food supply, the profit being £9,000, the dividends paid £700, and a loan of £6,000 being made to the controlling shareholder. In another case the profits were £13,000, the dividends £1,000, and the loan £10,000. In the previous year the controlling shareholder had drawn by way of loan £33,000 out of the accumulated profits."

These hypothetical and actual cases give an indication of the devices which have been used by persons who desired to avoid the payment of super tax to which they would have otherwise been liable. The examples given do not form an exhaustive list of all the types of evasion, because the ingenuity of persons who attempt such evasion knows no limit. Doubtless the Inland Revenue is the only body in possession of full details of the various devices which for obvious reasons are not made common knowledge.

It is clear that this Association should lend full support to the Government in its endeavours to prevent devices of this nature being used by individuals to avoid payment of super tax.

It is necessary, however, to ascertain clearly wherein the 1922 Act fails and to examine the provisions as amended by this year's Finance Act.

PRESENT LEGISLATION.

Finance Act, 1922.

The first attempt to prevent this avoidance of super tax was made in the Finance Act, 1922.

The provisions of this Act limited its application, however, to companies:—

(*a*) Registered after April 5th, 1914;
(*b*) Whose shareholders do not exceed 50;
(*c*) Which have not issued a public invitation to subscribe for shares;
(*d*) Which are controlled by not more than five persons.

When this legislation came into operation it proved to be ineffectual in preventing the avoidance because of the ease with which the foregoing restrictions could be surmounted.

"One-man" companies which were being used for evasion of super tax transferred their business to a company registered prior to 1914, and, as a direct result of this legislation, derelict pre-war companies changed hands at prices greatly in excess of their true value. Another course was to issue shares of a purely nominal value, carrying no voting power, to 50 persons. No matter which way was chosen, the immediate effect was to exempt such companies from the provisions of the 1922 Act and to enable the "tax-dodgers" to continue their practices.

Finance Act, 1927.

The comparative failure of the 1922 Act to prevent the evasion of super tax constitutes the reason for the provisions in this year's Finance Act.

Combining the provisions of the 1922 and 1927 Acts, the legislation in force now appears to run on the following lines. These notes, however, although given in some detail, should not be regarded as being strictly authoritative and exhaustive, and reference should be made to the actual section if fuller information is desired on any particular point.

Where any company which comes within the definitions laid down has not within a reasonable time distributed a reasonable part of its profits in such a manner as to render that income liable to super tax, the Special Commissioners may direct that the profits of the company shall be deemed to be the income of its shareholders. (1922.)*

Super tax shall then be charged on the sum apportioned among the shareholders after deduction of any amount which has been distributed. (1927.)

In determining what is a reasonable distribution, the Commissioners shall have regard to the current and other requirements necessary for the maintenance and development of the business. (1922.)

Requirements shall not include any of the following sums, which shall be regarded as income available for distribution:

(A) Any sum applied, except under pre-war obligations, out of income,

(1) In payment for the company's original or first substantial business;

(2) In repayment of any debt incurred in payment for any such business;

(3) In meeting any obligations in respect of the acquisition or any such business.

(B) Any sum applied in connection with any fictitious or artificial transaction. (1927.)

These applications, however, shall not make the provisions apply to any company, unless there has not been a reasonable distribution. (1927.)

Any super tax chargeable shall be assessed on the shareholder in the name of the company, and shall be payable by the company, subject to the following provisions. (1922).

Notice of charge shall be served first to the shareholder; if he does not, within 28 days, elect to pay the tax the notice shall be served on the company and the tax shall become payable by the company. If the shareholder elects but fails

* The figures in brackets at the end of each paragraph denote the year in which the legislation was passed.

to pay tax, the Commissioners have right to recover the amount from the company. (1922.)

Any undistributed income which has been so charged shall, when subsequently distributed, not form part of the total income to be declared for super tax purposes. If the shareholder is already a super tax payer and further tax has been paid under these provisions he may claim repayment of any super tax overpaid. (1922.)

These provisions shall apply to any company which is under the control of not more than five persons; but not to a subsidiary company controlled by a company which is exempt nor to a company in which the public are substantially interested.

The control in a subsidiary company must be held by reason of the beneficial ownership of shares therein.

"A company in which the public are substantially interested" shall be a company where shares, other than those entitled to a fixed rate of dividend with or without further participating rights, carrying at least 25 per cent. of the voting power are held by the public, are dealt in on a stock exchange, and are quoted in the official list of such exchange.

"Company" means a company within the meaning of the Companies (Consolidation) Act, 1908. (1927.)

A company shall be deemed to be under the control of a given number of persons where the majority of the voting power is held by these persons or their relatives or nominees, or where the control is held by any other means. (1922.)

A "relative" means husband, wife, ancestor, lineal descendant, brother or sister. (1922.)

"Nominee" means a person who is required to vote as directed by another person on whose behalf he holds shares. (1922.)

Partners and persons interested in estate of a deceased person or in a trust shall be deemed one person. (1922.)

When a company goes into liquidation, the profits from the date of the last accounts to date of order for winding-up shall be deemed the income of that period available for distribution, and the words "within a reasonable time" shall not apply to previous year. (1927.)

Liquidator shall be responsible for any super tax due by company in liquidation. (1927.)

Profits shall be deemed to have been received by shareholder on date of order or resolution for winding-up. (1927.)

A company which is "aggrieved" by any direction under these provisions may appeal to Special Commissioners within 21 days after the date of notice. (1922.)

Company or Inland Revenue may appeal from determination of Special Commissioners to Board of Referees within 21 days after date of such determination. Determination of Board of Referees shall be final and conclusive, except on a point of law. (1922.)

Special Commissioners may by notice require any company, which appears to be a company to which these provisions apply, to furnish:—

(*a*) Statement of actual income from all sources, with copy of accounts and particulars of manner in which income has been dealt with.

(*b*) Names and addresses and particulars of interests of shareholders. (1922.)

Where company has received such notice, the directors may, instead of furnishing information, make a statutory declaration to the effect that there has not been and will not be any avoidance through failure to make a reasonable distribution. (1927.)

On receipt of such declaration within 28 days after the date of issue of notice, the Special Commissioners shall not, unless there is reason to the contrary, take any further action. (1927.)

If there is reason to the contrary the Board of Referees, and also the Inland Revenue, shall be notified accordingly, and shall receive a copy of the statutory declaration. (1927.)

The Inland Revenue may, within 28 days, submit a counter statement to the Board of Referees. (1927.)

The Board of Referees shall thereupon determine whether there is or is not a *prima facie* case for proceeding further. (1927.)

Such determination shall be final and conclusive. (1927.)

Provisions of Income Tax Acts shall apply in computation of profits. (1922.)

Commissioners may make an estimate of profits if company fails to furnish information. (1922.)

Appointment of profits shall be made according to shareholders' interests and apportioned income shall be deemed to be the highest part of total income. (1922.)

Income shall be deemed to have been received on date to which accounts are made up or on application on such date as Commissioners determine to be just. (1927.)

Commissioners shall furnish the company with a statement showing the profits chargeable to super tax and the amount apportioned to each shareholder or class of shares. Company may appeal against this notice of apportionment. (1922.)

Nominees shall state name and address of person on whose behalf shares are held. Penalty for non-compliance being twice the amount of super tax at highest rate on apportioned income. (1922.)

Sect. 32 of the Finance Act, 1927, deals with parent, subsidiary and interconnected companies. The provisions are as follows:

Where a member of a company ("first" or subsidiary) is itself a company ("second" or parent), the super tax payable on the undistributed profits of the subsidiary shall be apportioned among the shareholders of the parent company according to their respective interests.

Parent company shall, on demand, furnish a list of names and addresses of all its shareholders on date to which last accounts of subsidiary company have been made up.

Any super tax shall be assessed on the shareholder in the parent company in the name of the subsidiary company and shall be payable by the shareholder within 28 days of the notice, failing which by the subsidiary company.

Where shareholder in parent company is a company, profits shall be apportioned similar to foregoing provisions, and so on, so that successive apportionments shall be made until whole amount of assessable profits of subsidiary company has been attached to persons other than a company to which those provisions apply.

EFFECT OF PROVISIONS.

In a consideration of the effect of these provisions on industry, and particularly on companies to which they may apply, it is important to appreciate the attitude of the Government, and probably also the Inland Revenue, as expressed by Mr. Churchill in the House of Commons on July 18th. (Official Report, col. 178 *et sequens.*)

> "There has been a great deal of agitation and some irritation about this clause, formerly Clause 29, now Clause 31, and in addition to this there has been an immense amount of apprehension and alarm and misconception which in my honest opinion is absolutely unjustified. This clause does nothing but extend the area of the provisions which, five years ago, were passed through

this House by my predecessor, the Right Hon. Member for Hillhead (Sir R. Horne). It extends them from an area of 40,000 companies to an area of approximately 75,000 private companies. That is all it does. It in no way menaces the development of private company business in a way different from the conditions under which that business has lived and flourished during the last five years. During the whole of those five years only 550 cases have been challenged out of 40,000 companies by the Board of Inland Revenue, and in only 250 cases has actually a claim for payment of the tax been made, and in less than half of these cases has that claim been paid.

"It is now proposed, roughly speaking, to double that area, and I dare say to double the application. But the idea that this extension of these processes will be injurious to the proper building up of reserves and the development of company business is absolutely without foundation. I have accepted amendments with great readiness, and have accepted the co-operation of those Members of this House who have made a sincere and profound study of this complicated question. I have spoken of companies as wholly private company business, but all private company business does not come within the ambit of this clause, although very nearly all. Let us see what a small place private company business occupies in the general economic productivity of this country. I fancy the figures will astonish the House. I am dealing now with concerns making a profit exceeding £2,000 a year. Of these there are 55,000 public companies making £480,000,000 profit. There are 15,000 private companies making £55,000,000 profit. Then we come to the firms and individual traders, of whom there are 20,000, making £100,000,000 profit, and professional men, numbering 5,000, making £25,000,000 profit. Thus, you will see out of £543,000,000 only £55,000,000 is made by private companies. If you come to firms making profits not exceeding £2,000 a year the figures are the same in proportion. There are £252,000,000 profit made other than by private companies and £25,000,000 by private companies. Thus the House will see we are dealing with a portion of business which is less than 10 per cent. of the total national business, but all the arguments which have been used would lead one to think that the entire fund of enterprise and ingenuity in Britain would be for ever chilled and cut off. On the contrary, it is my submission to the House that after all the thought and argument which these weeks have produced, Clause 29, which is now Clause 31, so far from being an injury is going to be a great protection and support to private company business.

"It is to my mind a very slight thing that we should ask that the private companies of this country, in return for the great privileges and advantages which they enjoy over the more important and more numerous private firms and partnerships, should accept and acquiesce in the carefully guarded provisions of this clause in order that private company business may continue to enjoy those privileges and advantages without being vitiated by continued imputations of abuses.

"I shall be quite ready to profit by any advice I may receive and to consider *bonâ fide* suggestions from any inquiry that may be set on foot. But so far as this particular clause is concerned, I am confident that it will do no harm whatever to legitimate business, and that the vast mass of private companies, themselves only a small part of the business of the nation, will not be aware of any change whatever in the way in which their relations with the tax collecting authorities are disposed. I am certain that this will, in fact, strengthen the position of private companies by freeing them from an abuse which, growing with their growth and strengthening with their strength, might ultimately have choked them entirely."

These statements may carry a certain amount of conviction and assurance, but it should not be forgotten that if and when any particular case comes within the scope of these provisions such statements are of little avail and carry no weight because regard can only be had to the rules of the statutes.

In passing, however, exception may be taken to the emphasis laid by Mr. Churchill on the small contribution made by private companies to the prosperity of the country. The figures he quoted cannot be refuted, but it is important to note that they deal only with final profits and ignore entirely many factors, such as output, employment and businesses making a small profit which, strictly, in justice, ought to have been included. If this had been done, the private company would have taken a place much higher than that to which it was relegated and would have compared more favourably with public companies and other forms of enterprise.

In the opinion of the Association of British Chambers of Commerce, the importance to the industry of this country of private limited liability companies is far greater than the number of such companies would indicate.

Private companies may be regarded as the nursery of British industry, and the great majority of the successful concerns of to-day have started as private companies. Had it been necessary for those companies to have distributed the whole of their profits, or had they been required to pay super tax on profits undistributed, British industry would have received a severe blow.

It has been argued that the whole of the profits made by a private trader, when they come within the super tax area, are liable to super tax and that a private company enjoys a distinct advantage in this respect.

The Association desires to point out, however, that a private trader can register his business as a limited liability company without his interest in the business suffering, and if he elects to trade as a firm and not as a private company he has no cause for complaint. It is, however, impossible in many cases for a private company to become a public company without an entire alteration in constitution and control.

Before examining the possible injury which may result to private companies, consideration might be given to the question as to whether these provisions attain their object of preventing the avoidance of super tax. There can be no doubt that the scope for evasion by means of a company and by the devices illustrated previously, has been curtailed to a considerable extent. Many persons who formerly found it very easy to place themselves beyond the operation of the provisions will find such a movement very difficult and perhaps impossible. On the other hand, legislation still offers one or two ways in which evasion can be practised, and probably other carefully planned methods will be devised, to defeat the efforts of the Inland Revenue. It is to be hoped that these practices of avoidance will not be successful so that those persons, who in the past have lessened their burden of taxation to the detriment of that borne by others, will be called upon to pay their proper and proportionate share. Beyond stating that the present evasion will certainly be checked, no conclusion on this question can be reached until the legislation has been in operation for a few years.

There is, however, a fear that the legislation in attaining the desired object of preventing avoidance of super tax will simultaneously cause hardship and injury to many companies who conduct their businesses in a prudent, honest and legitimate way.

There are many features in the legislation which give ground to this fear of injury. All of them cannot be indicated, but the following are given as examples typifying the effect of the legislation.

The legislation discriminates between companies controlled by five persons and those controlled by six. In other words, a company controlled by five persons may be assessed for super tax on its undistributed profits, and a company, possibly in the same branch of industry, will be exempt from such an assessment simply because it is controlled by six persons.

The amount of the penalty is considered to be too severe, as it will take the form of super tax on the whole amount of profits undistributed, regardless of any sums which may be legitimately placed to reserve. It is true that the legislation provides a safeguard against this penalty. It is believed, however, that this safeguard does not operate unless it is proved that there has been a reasonable distribution, and in any case the determination of what is a legitimate transfer to reserve is left to the Special Commissioners. This leads to another objectionable feature of the legislation, as this provision practically imposes on the directors of the company the decision of an official body who shall determine what is a reasonable distribution and what the requirements are for maintenance and development. Such a question is certainly not one of law, nor is it to any great extent one of fact. It is entirely one of opinion and discretion, and it is felt that those who are best able to form a sound opinion of a company's requirements are the directors of that company, and certainly not an official.

An appeal from the decision of the Special Commissioners may be made to the Board of Referees whose impartiality is not to be doubted, but it has to be noted that the decision of this Board, except on a point of law, is final and conclusive.

The whole procedure suggests inconvenience, worry and delay to any company simply suspected of avoidance. Attendance at the hearing of the case will be necessary and funds to obtain expert advice and guidance will be required.

Probably the greatest factor responsible for the alarm caused by this legislation is that of uncertainty. The legislation confers strong powers on the Inland Revenue and there is justifiable apprehension as to the manner in which these powers will be used in the future. If it were clearly laid down in the Act that the provisions will operate only when there is a clear intention to avoid super tax, the alarm would be allayed. But this is not the case since the Crown cannot apparently prove motive in law. Owing, therefore, to the absence of any clear line of demarcation and definition, many companies will not know whether or not the legislation will apply to them. The tendency of those companies who actually are within the scope of the Act, and probably also those who fear they may be, will be to make a larger distribution of profits than they would do otherwise, in a desire to escape from the inquisitorial powers of the Inland Revenue. Finance of this description, involving distribution up to the hilt, can only be described as improvident.

The history of many large and prosperous companies reveals that their policy in finance has been one of thrift under which strong reserves have been accumulated in order to build up their assets and extend the scope and activities of their businesses. Yet this sound policy is struck at by the legislature and it is submitted that the effect of these provisions on industry will be seriously to hamper its development, to retard the progress of private company business and to endanger British trade.

The Association is in complete agreement with any measure taken to prevent the avoidance of super tax, but it feels that the present legislation requires some modification since it will, in operation, go further than is necessary to prevent such avoidance.

BASIS OF REMUNERATION OF VOLUNTARY LIQUIDATORS.

The following is the judgment of Mr. Justice ROMER in *Re The Herbert Engineering Company, Limited*, delivered on October 26th last, in the Chancery Division of the High Court:

This is a motion by way of appeal against an order of the learned Registrar by which he fixed, at the request of the parties, the remuneration of Mr. West, the liquidator in this winding-up, which was a voluntary winding-up. Now, it is well known in the case of compulsory liquidators, that is to say liquidators in compulsory winding-up, that their remuneration is fixed by Orders of the Board of Trade made from time to time, and which have statutory force. Of course, it does not always work very fairly. In some cases a liquidator may get too much when the percentage system fixed by the Order of the Board of Trade is followed, in other cases, the liquidator may get too little, but that is not unsatisfactory for liquidators, for if they get too much in one case they get too little in another, and the average is satisfactory to them. Whether creditors of one company who have had to pay too high a price derive any consolation from the fact that the creditors of another company have had to pay too little is not so obvious. But the scales in question do not apply to a voluntary liquidation. In fixing the remuneration of a voluntary liquidator, however, the Court in practice has always guided itself by the scale of remuneration given to liquidators in compulsory windings-up. It has regarded those scales as being in the opinion of the officials of the Board of Trade, of wide experience in the matter, as reasonable average remuneration for liquidators for their trouble in winding-up a company. As was pointed out by Lord Justice Lawrence, when he was a Judge of first instance in the case that has been cited to me, the reason for adopting that practice was that the Court found the most satisfactory method to adopt was to fix the remuneration on a percentage basis whenever that basis yields a fair remuneration, and to avoid, whenever possible, a time basis. Before the war I have no doubt that the Court, in fixing the remuneration of a voluntary liquidator, followed the scale of the 1903 Order which applied to liquidators in compulsory liquidation, but that Order was not altered until the year 1927—this year. It was, however, considered by the Court when fixing the remuneration of a voluntary liquidator to be not sufficiently generous to liquidators, and so from the period of the war until the present year the Court, as pointed out by Mr. Justice Lawrence in the case to which I referred, adopted in preference the scale applicable in bankruptcy. That would give him a more generous remuneration than the 1903 Order. As a matter of fact there is now in operation a scale applicable to liquidators in compulsory liquidation, the 1927 Order, which gives rather a less generous remuneration than would be afforded by applying the Bankruptcy Order of 1920, which Mr. Justice Lawrence, in the case I have referred to, said was regarded by the Court in fixing the remuneration of a voluntary liquidator, as a reasonable guide on which to act.

Of course, in fixing the remuneration of a voluntary liquidator, the Court has a discretion, and if it finds that in any particular case applying the scale, whether the bankruptcy scale of 1920 or the new scale of 1927, that the liquidator in a particular case would get a larger remuneration that he ought justly to have, having regard to the work he had performed, or if in a case it appeared that applying the scale the liquidator would not get sufficient remuneration for the work he had done, the Court would take that into consideration; it would not blindly follow the scale on the ground that by doing so the matter would work out on the average fairly, but

it would in the one case reduce the percentage, and in the other case it would increase the percentage. But, however, as I pointed out as strongly as I can, what appears to me to be the fallacy underlying some of the affidavits filed in this case in support of the motion is that those affidavits try to show that in the present case the liquidator, who received the sum of £50,000, part of the assets of the company in liquidation, received the £50,000 without any active work on his part, that he was merely a hand, that his hand was open to receive it, it merely dropped into his hand without any effort on his part to secure the payment of the sum; and it is suggested that that being so, the remuneration of the liquidator should not be based on a percentage on that sum so received. So far as the evidence goes it satisfies me that the liquidator in the present case did a great deal more towards helping in the recovery of that £50,000 than the affidavits would lead one to suppose, but even supposing that the applicants were right in saying that the £50,000 was not recovered through any act on the part of the liquidator, it by no means follows that that sum is to be disregarded when fixing the remuneration of the liquidator on a percentage basis. The remuneration is allowed to the liquidator not for his efforts in getting in the particular sums on which the percentage is calculated, but for the whole of his work as a liquidator. I ventured to put a case to Sir Thomas Hughes in the course of the argument, a case which must happen over and over again: A debenture holder starts proceedings for the purpose of enforcing his security, which covers the whole of the assets of the company; a liquidator is appointed in a voluntary liquidation. While the debenture holder's action is going on, the liquidator takes no part in the realisation of the assets; that is done in the debenture holder's action by the Court, through the agency and assistance of the Receiver. When the debenture holder's action is finished, if there be a sum, as there often is a sum, left over to the unsecured creditors after payment of the debenture holders, that sum is handed over to the liquidator in the voluntary liquidation, and he receives that sum without any effort on his part. Nevertheless there is nothing unfair in remunerating the liquidator for all the work he has been doing in the way of settling the claims of the creditors, calling meetings, circularising the creditors, and so on; there is nothing unfair in fixing his remuneration for that work by a percentage on the sum that he receives from the Receiver or from the Court in the debenture holder's action, though in the particular case he has done nothing actively himself to realise that sum.

In the present case the liquidator put forward a claim to remuneration based upon the Order now in force in relation to compulsory liquidation. When the matter came before the learned Registrar he did not allow the liquidator the remuneration he claimed, and he did not allow it because, as I understand, he came to the conclusion that a remuneration based on that percentage would be a remuneration which, in the circumstances, having regard to the work that was done by the liquidator, was too high, and he fixed the remuneration at £1,400, which was between £400 and £500 less than the remuneration which was claimed by the liquidator. It appears to me that the learned Registrar, in fixing that sum, has not proceeded upon any wrong principle. It seems to me that he has acted upon the right principle, that is to say, he has considered whether a remuneration based on the percentage now applicable in compulsory liquidations would or would not give to the liquidator a remuneration more than in justice the liquidator ought to have, and he has come to the conclusion that it would. He has also come to the conclusion, as I understand it, that in the circumstances, having regard to the work that was done by the liquidator in this case, £1,400 was a reasonable and proper remuneration for him to have. It appears to me in those circumstances, that I cannot interfere with the discretion of the learned Registrar. It is a matter in which he has great experience, much greater experience than I have. These cases are constantly coming before him. He knows much better than I do what are the duties of a voluntary liquidator, and what is a proper remuneration for a voluntary liquidator in any particular case for performing those duties. It is said, and said truly, that when the learned Registrar fixed the £1,400, he did so merely on the affidavits, not acceding, or without acceding to a request made by Mr. Swords that he should have an opportunity of cross-examining the liquidator upon his affidavit. I have had the opportunity of listening to the cross-examination and re-examination of the liquidator, and I am satisfied that if the learned Registrar had heard the further evidence given orally by Mr. West, that further evidence, so far from inducing him to grant a less sum than £1,400, would probably have induced him to give a little more. I say that for this reason, that the evidence given in re-examination by Mr. West in the witness-box orally has convinced me that he did a good deal more work in his liquidation than I should have thought to be the case had I had to rely upon the affidavits only. The fact, therefore, that the learned Registrar did not have the opportunity of hearing Mr. West give evidence orally is not a reason why, in the circumstances, I ought to interfere with the exercise of his discretion.

For these reasons I think that the summons and this motion must be dismissed, with costs.

Correspondence.

TRANSITIONAL RELIEF UNDER SECT. 29 (3) OF FINANCE ACT, 1926.

To the Editors *Incorporated Accountants' Journal.*

SIRS,—An interesting case has arisen in connection with the change in the mode of assessment for 1927-28 onwards.

Sect. 29 (3) of the 1926 Act provides for transitional relief in hard cases, but an examination of the figures set out below, which reveal an obvious case of hardship, would suggest that the possibility of a person sustaining consistent losses had not been brought before the notice of the Royal Commission on Income Tax, upon whose recommendation, I understand, the clause was inserted.

The adjusted profits of the years which require to be considered are set out hereunder.

½ year to September 30th, 1918	Loss	£84
1 ,, ,, ,, 1919	,,	334
1 ,, ,, ,, 1920	,,	19
1 ,, ,, ,, 1921	Profit	165
1½ ,, March 31st, 1923	,,	74
1 ,, ,, ,, 1924	Loss	143
	Loss	580
	Profit	239
		6)341
Average Loss		£57
1 year to March 31st, 1925	Loss	£55
1 ,, ,, ,, 1926	,,	19
1 ,, ,, ,, 1927	Profit	99

The Inspector of Taxes contends that the loss for the year to March 31st, 1925, £55, being less than the average annual loss for the preceding six years, £57, precludes the company from obtaining relief under the sub-section quoted

above. As the business was commenced before April 6th, 1923, no relief can be obtained under the provisions of sect. 28 of the 1927 Act.

It will be interesting to know whether any other similar defects in the Act have come to light in the practical application of the Act.

Yours faithfully,

London. R. YORK RICKARD.

INCOME TAX—RULE 11 CLAIM.

To the Editors *Incorporated Accountants' Journal.*

SIRS,—A company was formed in March, 1925, to take over a business (A). Its first complete year ended March 31st, 1926, showing a profit. Being assessed to income tax under Schedule D, the Inland Revenue, under succession, assessed the company for 1925-26 on a three years average. Subsequently, under Rule 11 (3), a claim was made and the assessment was amended to the actual profits for the year to March 31st, 1926.

On January 1st, 1927, the company acquired a further similar business (B).

For 1926-27 the company was originally assessed on average £500, but a claim has been preferred under Rule 11 (3) on the actual results for the year to March 31st, 1927, viz:—

Business A.	Whole year	£400	Profit.
,, B.	Three months only ..	200	Loss.
		£200	Profit.

The Inland Revenue contend that the original assessment of £500 can only be reduced to £400, but this would not appear equitable, as they would doubtless have refused the claim to allow £100 off the assessment if the business B had made a profit of £200, making the total profit £600.

Has any of your readers had a similar case?

Yours faithfully,

A. SIMPSON.

INCOME TAX AND "HOUSEKEEPERS."

To the Editors *Incorporated Accountants' Journal.*

SIRS,—Your article in the current issue of the *Journal* "Income Tax and 'Housekeepers'" is very interesting to me at the present time, but it does not clear up a contentious point which I have working with the Inland Revenue, viz: "Are sects. 18 and 19 of the Finance Act, 1920, reasonably capable of the interpretation that both 'married' and 'housekeeper' allowances can be due in the same fiscal year?"

In 1925-26 I claimed housekeeper allowance for a client (whose wife died and who immediately engaged a housekeeper) who had already had married allowance in that year, and was granted the same without question. In the current year, in a different district, I have the same position, and the housekeeper allowance is definitely refused both by the Inspector for the district and the principal Inspector for the area after I had pressed the latter into submitting the facts to the Secretary of the Board of Inland Revenue.

I realise the point is small, but there certainly should not be this inconsistency of treatment, and your further views, either by way of an article in the *Journal* or direct communication to me, would be much appreciated.

Yours faithfully,

Hull, *November, 1927.* STANLEY SCOTTER.

[We do not think that any useful purpose would be served by discussing the matter further.—EDS., *I.A.J.*]

BIRMINGHAM AND MIDLAND SOCIETY OF INCORPORATED ACCOUNTANTS.

Opening of New Offices and Meeting Room.

The Birmingham and Midland District Society have recently acquired offices and meeting accommodation in Birmingham at 126, Colmore Row, to be the headquarters of the District Society. The rooms include a library, and have been suitably fitted and furnished.

On the afternoon of Friday, November 18th, Mr. Ernest T. Kerr, President of the Birmingham and Midland Society and member of the Parent Council, formally opened the rooms and was At Home to members and guests during the afternoon. Among those present were Mr. Duncan E. Campbell, member of the Council, Wolverhampton; Mr. A. A. Garrett, Secretary of the Society of Incorporated Accountants and Auditors, London; Mr. F. M. Hawnt; Mr. E. T. Brown; Mr. T. Harold Platts, Honorary Secretary of the Birmingham and Midland District Society, and a number of members.

Mr. Kerr, who was cordially received, formally declared the rooms open, and said he was very glad to be able to welcome the members that afternoon in their own home. He felt sure the rooms met a real need, and would be a valuable aid in stimulating the work of Incorporated Accountants in Birmingham. He relied upon the continual and increasing support of the members throughout the district. He expressed his thanks for the co-operation of Mr. T. Harold Platts in arranging for the rooms. Mr. Platts had also been good enough to undertake to provide the necessary clerical assistance for the office and library. They were glad to have with them Mr. A. A. Garrett, Secretary of the Parent Society, upon whom he called to address them.

Mr. Garrett said it gave him particular pleasure to be their guest and to meet a number of the members in Birmingham. He congratulated them on the splendid accommodation which was now available for their use, and expressed the indebtedness of the members to the President, Mr. Kerr, and the Honorary Secretary, Mr. Platts, for their enterprise in the matter. He believed the example they had set would be followed by other Branches and District Societies throughout the country. Mr. Garrett conveyed to them a message of goodwill from the President of the Society, Mr. Thomas Keens, who, as they knew, was promoting a scheme which should enable the District Societies to be suitably housed. The President was therefore particularly interested in the step which the Birmingham members had taken on their own responsibility. In concluding his remarks, Mr. Garrett said the Council were very glad to have as one of their colleagues Mr. E. T. Kerr, who was elected at the last annual meeting. He had already shown a lively interest in the work of the Council, and had given valuable advice upon the work of the Society, particularly as it affected the Birmingham members. He wished the Birmingham Society a prosperous future.

At the request of the Committee, Mr. A. A. Garrett, formally presented a Badge of Office to Mr. Ernest T. Kerr, the President of the Birmingham and Midland Society, for the use of himself and his successors.

Mr. T. Harold Platts addressed the members, and read a telegram of congratulation from the Parliamentary Secretary of the Society. He outlined the programme proposed for the ensuing session, which included visits to the Accounting Department of the Gas Corporation of the city and also to view the office organisation of Messrs. Cadbury.

An informal discussion took place on the activities of the Birmingham and Midland Society, and a number of proposals were made.

On the motion of Mr. Duncan E. Campbell, seconded by Mr. E. T. Brown, Wolverhampton, a hearty vote of thanks was accorded to Mr. Kerr for presiding at the meeting and for his kind entertainment that afternoon.

UNEMPLOYMENT INSURANCE BILL, 1927.

Report by the Government Actuary on the Financial Provisions of the Bill.

The following is the report of Mr. Alfred W. Watson, the Government Actuary, to the Right Hon. Sir Arthur Steel Maitland, Bart., M.P., Minister of Labour, dated October 21st, 1927:—

Sir,—In compliance with your request I have examined the financial provisions of the Unemployment Insurance Bill, 1927, and submit the following report thereon.

1.—The Bill proceeds by way of amendment of the existing Unemployment Insurance Acts and, save in respect of young men and young women between the ages of 18 and 21 years, maintains the *status quo* in regard to contributions. The alterations in respect of benefits are somewhat more extensive. The principal clauses affecting the financial position are as follows:—

Clause (2).—Rates of contribution in the case of young men and young women.

Clause (4).—Rates of unemployment benefit.

Clause (5).—Amendment as to statutory conditions for receipt of benefit.

Clause (12).—Transitional provisions.

2.—These provisions, with such of the relevant existing conditions as remain unchanged, may be briefly summarised as follows:—

(A) *Weekly Rates of Contribution.*

—	Rates payable till expiry of the "extended period."			
	Employer.	Employee.	State.	Total.
	d.	d.	d.	s. d.
Men	8	7	6	1 9
Young Men ..	7	6	5½	1 6½
Women	7	6	4½	1 5½
Young Women ..	6	5	3⅔	1 2⅔
Boys	4	3½	3	0 10½
Girls	3½	3	2¼	0 8¾

—	Maximum Rates payable after the "extended period" terminates.			
	Employer.	Employee.	State.	Total.
	d.	d.	d.	s. d.
Men	6	6	5½	1 5½
Young Men ..	6	6	5½	1 5½
Women	5	4	3⅚	1 0⅚
Young Women ..	5	4	3⅚	1 0⅚
Boys	3	3	2⅓	0 8⅓
Girls	2½	2	1 13/14	0 6⅚

The "extended period" is defined by sect. 4 of the Unemployment Insurance Act, 1925. In effect it is the period to elapse between the present time and the end of the insurance year during which it is certified that the Unemployment Fund, in the opinion of the Treasury, having regard to all the circumstances of the case, is solvent.

In regard to the rates of contribution payable after the end of the "extended period," it should be explained that the rates quoted in the above table are those prescribed under the existing law as *maximum* rates. (Sect. 4 (2) of the Act of 1923 as amended by sect. 4 (2) of the Act of 1925.) Lower rates may be determined by the Minister, under regulations made by him with the consent of the Treasury, being such rates as appear to him from time to time to be necessary. With reference to young men and young women, I am instructed that it should be assumed, for the purpose of the estimates, that whatever may be the rates fixed for persons over 21 the rates for these classes will be lower rates, bearing similar proportions to the rates for adults as will obtain during the "extended period."

(B) *Weekly Rates of Unemployment Benefit.*

Class of Persons to whom Rate applies.	Rate of Benefit.
(i) Persons of the age of 21 years and upwards:	
Men	17s. 0d.
Women	15s. 0d.
(ii) Persons aged between 18 and 21:	
Young Men	10s. 0d.
Young Women	8s. 0d.
(iii) Persons aged between 16 and 18:	
Boys	6s. 0d.
Girls	5s. 0d.
(iv) Wife or other adult dependant	7s. 0d.
(v) Dependent child under 14 (or 16 if under full-time instruction in a day school) ..	2s. 0d.

The above rates of benefit represent a reduction of 1s. a week in the case of men over the age of 21; on the other hand, the benefit payable in respect of an uninsured wife or other adult dependant has been increased by 2s. a week. It appears from the statistics collected by the Ministry that 50 per cent. of men claimants have an adult dependant, and therefore that, so far as the total cost of benefits is concerned, these changes balance each other.

(C) *Amendment of Statutory Conditions for receipt of Benefit.*

The chief amendment under this heading is a new first statutory condition requiring the payment of 30 contributions during the two years immediately preceding the date on which application for benefit is made. This condition will be re-applied at quarterly intervals. It is subject to modification in respect of war pensioners in whose case its non-fulfilment is due to their pensionable disablement, and the period of two years is enlarged to a possible maximum of three years in cases where the insured person has been rendered incapable of work, for any portion of the two years, by specific disease or disablement.

(D) *Transitional Provisions.*

These bring the new statutory conditions into operation by stages. They provide for a considerably modified "contribution test," to operate for a specified period, in respect of persons who are unemployed at the date of the commencement of the Act or who, being over the age of 18 years, become unemployed within twelve months after that date.

3.—The position of the fund under the new conditions will obviously be governed by the rate of unemployment prevailing from time to time. In so far as the conditions which apply after the expiry of the "extended period," *i.e.*, when the fund is solvent, are concerned, it is appropriate, for the purpose of financial estimates, to consider the fund as subject to the operation of a normal trade cycle. In this connection I propose to state the position on alternative bases, showing, firstly, on what rate of unemployment it is estimated that the fund would be maintained in a solvent condition if the "maximum" rates of contribution (as described in paragraph 2 above) which are payable after the "extended period" terminates, were charged permanently; and secondly, what annual amount of surplus

would, it is computed, be available, on the average, for the reduction of these contributions if the rate of unemployment over the cycle were 6 per cent., this being the rate employed in the estimates made for the recent Departmental Committee on the Unemployment Insurance Scheme. In each case, and in the subsequent estimates as to the "extended period," the rate of unemployment among boys and girls under the age of 18 has been taken at 4½ per cent.

4.—The estimates are based on a population of 11,750,000. This figure is derived from the estimate of the Ministry of Labour in respect of the number of insured persons at July, 1926, with allowance, on the one hand, for the natural increase of population, and on the other for the exclusion from insurance, as from January next, of persons of the age of 65 and over. It may be regarded as applicable to the year 1929. Although the numbers insured are gradually increasing, it has been thought inadvisable to complicate the estimates by the introduction of this minor element of variability.

5.—It is estimated that as the result of the "waiting period" and other limiting conditions, benefit will be payable in respect of 74 per cent. of unemployment when the unemployment rate is 6 per cent., this proportion being somewhat reduced when the rate is higher than 6 per cent. The particular factors here requiring examination are discussed at length in my report to the Departmental Committee, which is published as Appendix No. 2 to the Committee's report. I have not considered it necessary to revise the estimates then made, although certain modifications are proposed by the Bill in the case of war pensioners and persons who have been rendered temporarily incapable of work by sickness or disablement. I do not anticipate that the financial weight of these concessions will be substantial.

With regard to young persons under the age of 18, it is assumed that 60 per cent. of those who are unemployed at any date will be entitled to benefit. A considerable section of this class must at all times be in the course of acquiring the contribution qualification.

6.—An allowance of 12½ per cent. of the income from contributions has been made for expenses of administration in accordance with sect. 8 of the Act of 1922 wherein this proportion is prescribed as the maximum.

7.—Reverting to paragraph 3 wherein I refer to the position after the expiry of the "extended period," it is estimated in regard to the first of the alternative computations therein described, that the income and expenditure of the fund will balance if and so long as the rate of unemployment approximates to 7½ per cent.

8.—As regards the second alternative, I estimate that if over a cycle of years the rate of unemployment experienced should be 6 per cent. an average surplus of about £5,400,000 a year will arise. In these circumstances the rates of contribution may, by sect. 4 (2) of the Unemployment Insurance Act, 1923, be less than the "maximum" rates; I estimate that the surplus of £5,400,000 would be sufficient to admit of reductions, from the maximum of 1d. per week in both the employers' and the employees' contributions in respect of all insured persons over 18 years of age, with a corresponding reduction in the case of boys and girls.

9.—Dealing now with the "extended period," estimates have been framed to show the financial operation of the scheme under various conditions as to stress of unemployment. In June, 1927, the rate of unemployment, as stated in the *Ministry of Labour Gazette*, was 8.8 per cent. There is, however, nothing in the circumstances of the present time to suggest that this rate, or indeed any single rate, should be taken as a measure of the conditions which are likely to obtain on the average of the whole of the "extended period" and I have accordingly estimated the yearly expenditure and income as these would be affected by rates of unemployment of, respectively, 7, 8, 9 and 10 per cent.

10.—At this point reference should be made to the fact that the gradual transfer from the existing conditions and rules for receipt of benefit to the new statutory conditions is likely to be reflected in the cost of benefits for the first two years following the commencement of the Act. There are, however, no means by which the recipients of benefit during this period could be statistically classified, even if, which is equally impossible, the general rate of unemployment in the period could be predicted. I am precluded, therefore, from making any estimate of the effect of the transitional provisions of the Bill.

11.—In connection with the estimates otherwise relevant to the "extended period," I have had to consider a feature of some importance in the current statistics of unemployment. For a long period the proportion of men to women among the unemployed did not greatly differ from the ratio of four to one, and this proportion has been used, directly or in effect, in the estimates which have been made from time to time for the purpose of the reports which I have submitted upon the financial provisions of Unemployment Insurance Bills. I find, however, from the number of books lodged in recent months, that the proportion of men to women among the unemployed has been as high as eleven men to two women. This increase in the proportion of men among the unemployed is a recent phenomenon, first becoming pronounced in the early months of 1927, and is explained by the fact that while the numbers unemployed of both sexes have been diminishing the reduction has been proportionately much greater in the case of women than in the case of men. It is obviously impossible to form an opinion as to the course of any future changes in this ratio. In arriving at the results stated in paragraphs 7 and 8 above, the ratio has been taken as four men to one woman, this being regarded as probably representative of normal conditions. So far as the "extended period" is concerned, alternative estimates are given, the first on the basis of a ratio of four men to one woman, and the second on a basis of eleven men to two women.

12.—Having regard to the considerations explained in paragraph 10 above, these estimates relate to such part of the "extended period" as may continue beyond the point of time when the transitional conditions cease to operate, and show the annual surplus or deficiency under the conditions of the Bill on the various alternative assumptions in regard to the rate of unemployment named in paragraph 9. The results thus obtained are as follows:—

Rate of Unemployment.	Annual Surplus of Income over Expenditure (or Deficiency) in the "Extended Period."			
	Numbers unemployed representing 4 men to 1 woman.		Numbers unemployed representing 11 men to 2 women.	
	Surplus.	Deficiency.	Surplus.	Deficiency.
Per cent.	£	£	£	£
7	8,900,000	—	8,480,000	—
8	5,210,000	—	4,740,000	—
9	1,680,000	—	1,170,000	—
10	—	1,410,000	—	1,970,000

13.—No provision is included for interest on the debt of the Unemployment Fund in arriving at the results here given. This liability, which at the present time is equivalent to over

£1,000,000 a year, varies with the amount of the debt and the rate of interest fixed by the Treasury from time to time. Any surplus remaining in a particular year, after providing for the interest on the debt then existing, will be applied to reduce the debt and thus to shorten the duration of the "extended period."

RECEIVER AND BREACH OF DUTY.

Before Judge Shewell Cooper, in the Mayor's and City of London Court, Messrs. R. Sommerville & Co., Limited, Creech St. Michael Paper Works, near Taunton, Somerset, brought an action against Mr. A. E. Baxter, Chartered Accountant, 57-60, Holborn Viaduct, London, E.C.1, claiming £46 5s., made up of £36 due upon a debenture and £10 5s. interest from April, 1923. The plaintiffs' case was that a debenture was issued to them for £36 upon the assets of a company called Money Hicks & Mills, Limited, printers, in April, 1923. In June, 1925, Mr. Baxter was appointed receiver for other debenture holders, the assets of the company being at that time valued at about £4,000. Mr. Baxter permitted a new company, called the United Kingdom Manufacturing Company, Limited, the principal person in which was Mr. H. F. Money Hicks, who had been a director of Money Hicks & Mills, Limited, to take possession of the assets of Money Hicks and Mills, Limited, with the result that nothing remained with which to satisfy the plaintiffs' and other debentures. The plaintiffs contended that as a receiver it was Mr. Baxter's duty to have realised the assets and paid off the sum due to them on their debenture, but owing to the method in which he had conducted his receivership they were suing him personally. Evidence was given by an official from Somerset House that the debenture was one of a series properly registered and appearing in the records of the company. He stated that subsequent to the appointment of Mr. Baxter as receiver the company of Money Hicks & Mills, Limited, went into liquidation, and another gentleman was appointed liquidator.

Mr. William Anderson, a Chartered Accountant, said he was appointed liquidator on April 13th, 1927, but had not succeeded in recovering from Mr. Baxter assets of any kind.

Mr. A. E. Baxter, the defendant, admitted his appointment, and said that soon after that took place tentative proposals were made for the purchase of the assets by the United Kingdom Manufacturing Company, Limited. The active personality in Money Hicks & Hills, Limited, was Mr. Money Hicks, who with his family had removed the plant and machinery of that company to another address after witness was appointed receiver. Lengthy negotiations took place, and finally witness attended at premises where he discovered that the machinery had been re-erected for the purpose of taking it in hand. On that occasion the attitude of Mr. Money Hicks was threatening, and in response to a telephone message by that gentleman a policeman came, and witness had to leave the premises. Subsequently witness commenced an action to recover possession of the property, which action had not yet come to trial.

Judge Shewell Cooper said that in effect the action had resolved itself into one of damages for breach of duty against the defendant. The duties of a receiver were well known to Chartered Accountants, and Mr. Baxter had to be considered as one who knew those duties. It appeared that shortly after he was appointed he had permitted the person who had been managing its affairs to continue doing so. In that respect there was nothing improper in his methods. It appeared also that throughout the period immediately following his appointment as receiver for the debenture holders he seemed to be showing a tender regard for the welfare of the company as well as that of the debenture holders, although strictly speaking he was only concerned with the latter. That state of affairs continued for about a year, when a receivership account was prepared in which one or two entries were not strictly accurate, although, in his Lordship's view, it could not be said there was any breach of duty up to that point. Subsequent to that a proposal for the formation of a new company to take over the assets of the old company was made, and it appeared that Mr. Baxter was ready to consider the proposal subject to certain limitations. In fact, Mr. Hicks seemed to have carried through his proposal of transferring the assets of the old company to a newly formed company, not with the consent, but rather with the acquiescence of Mr. Baxter. The curious position then arose that the premises and assets of the company were being used by a new company, and a very complicated position ensued. He (his Lordship) had to consider if that was a proper thing to permit, and if so, whether the debenture holders had suffered in consequence. After careful consideration of all the circumstances he came to the conclusion that it was a breach of duty, although there was nothing crooked or materially wrong about it. "It seems to me to be a case of negligence, neglect and weakness," added his Lordship. Finally he held that the plaintiffs were entitled to recover, and accordingly judgment was entered for the plaintiffs against Mr. Baxter for £46 5s. and costs.

ACTION FOR PROFESSIONAL FEES.

In the Mayor's and City of London Court, before Judge Shewell Cooper, on November 8th, Mr. F. F. Sharles, Incorporated Accountant, 52, Queen Victoria Street, London, E.C., sued the Orient Oil and Finance Company, Limited, 61, Moorgate, London, E.C., for £57 for work done between November 5th, 1926, and April 7th, 1927, in connection with a balance-sheet, and a prospectus and accounts of the defendant company. The plaintiff, giving evidence, said that he was introduced to Mr. Maisel, the chairman of the defendant company, by a Mr. Gottlieb, a gentleman who was associated with a company which was proposing to underwrite part of an issue of shares which the defendant company was proposing to make. The witness was instructed to investigate the affairs of the Orient Oil and Finance Company, Limited, and report to Mr. Gottlieb, who required the information to put before the parties whom he hoped to persuade to provide the money for the underwriting of the shares. The work, which took 95 hours, and at a charge of four guineas a day for a seven hour day, made up the amount of his claim. Witness agreed in cross-examination that as a result of his report Mr. Gottlieb gave up the idea of taking an interest in the underwriting of the defendant company's proposed new issue, and said that he regarded it as the duty of a responsible accountant to make an adverse report, even though he was being employed by the company which it affected. His instructions were to report to Mr. Gottlieb, and that he had done. He had also done considerable work in connection with a prospectus which the defendants intended to issue when the flotation was made. In the course of his work he was appointed, by minute, consulting accountant to the defendant company.

The defence was that the plaintiff was employed by Mr. Gottlieb, to whom he should look for payment. Mr. B. P. Maisel, giving evidence, said that from the very first plaintiff was doing the work for Mr. Gottlieb, and a company with which that gentleman was associated. It was not likely that the defendants would arrange to pay the plaintiff for making investigations which only Mr. Gottlieb required.

Judge Shewell Cooper said it seemed to him that it would be much more likely that the plaintiff was instructed by the defendants to prepare a statement of the situation of the defendant company in order that Mr. Gottlieb would have material with which to approach the parties who were likely to underwrite the defendant's shares. He (His Lordship) in addition preferred the version given by the plaintiff to that of Mr. Maisel. Judgment was given for the plaintiff for the amount claimed, with costs.

Points on the New Income Tax Legislation.

A LECTURE delivered before the Incorporated Accountants' Students' Society of London by

MR. H. HEATHCOTE-WILLIAMS, M.A.,
BARRISTER-AT-LAW.

The chair was occupied by Mr. WILLIAM STRACHAN, Incorporated Accountant.

Mr. HEATHCOTE-WILLIAMS said: I will commence my lecture this evening with some general observations on the law relating to Income Tax.

My first is with reference to the perennial agitation for the simplification of the income tax. Upon this question there is a great deal of confused thinking, and I strongly advise you, as members of a learned and honourable profession, against making groundless gibes which are the stock-in-trade of the political cheap-jack. It is quite wrong, to my mind, to suppose that the taxpayers as a whole desire a simple tax as opposed to the present elaborate one, with its varying application to varying incomes as they vary in nature and source. The taxpayers would strenuously object to a removal of the distinction, say, between earned and unearned income, or of the relief given on account of dependants, and so on. In fact the tendency is all for an extension of this principle of distributing the country's financial liability among taxpayers so as to let it fall fairly upon the individual in accordance with his own personal responsibilities.

On the other hand, all this differentiation between the liability of individuals accounts to a very large extent for the present involved and intricate state of the law, and the position is not made any easier—in fact is made much worse—by the additional legislation which is introduced each year in order to meet particular cases of tax evasion. You will readily appreciate that it is impossible for the legislature to draft a clause which would cover every conceivable situation, and consequently it has to deal piecemeal with cases of tax evasion as they come to light, the effect of which is obviously to make the law considerably more cumbrous and complex.

The question of the simplification of the law of income tax and the question of tax evasion are two of the matters upon which the Income Tax Act, 1927, is chiefly concerned, and I will take them as my two main headings; the third main heading I shall call Miscellaneous, and it will deal with various sections in the new Act which are of particular importance but which really have no special grouping.

I have a great deal of ground to cover in the time at my disposal and it will be impossible for me to treat my subject in any very great detail, but I will have achieved my object if I successfully explain to you the essential principles underlying the changes made by the 1927 Act.

(1) THE SIMPLIFICATION OF THE LAW OF INCOME TAX.

The first step in the new scheme for the simplification of the law of income tax was taken by the 1926 Act, when the basis of assessment under Schedule D was upon the income, &c., of the previous year, and the new Act has carried that scheme a further step forward. I may as well at once get rid of those sections of the 1927 Act which are adjustments consequential upon the change in the basis of assessment made in the 1926 Act, and are important, but largely of temporary interest.

Sect. 22 of the 1927 Act enacts that the person who, under sect. 29, sub-sect. 3 of the 1926 Act has elected to be charged for both the years 1927/28 and 1928/29 as if the three years average were still in force—that person will not be entitled to relief in respect of a loss sustained earlier than the year 1928/29 under sect. 33 of the 1926 Act, which would have enabled him to have carried forward such a loss computable under Schedule D Cases I and II for the following six years.

Sect. 23 of the 1927 Act deals with a lacuna in the 1926 Act, sect. 29, which enacted that where in the Income Tax Acts it was provided that income tax under Schedule D hitherto computed upon the income, &c., for the average of three years should thereafter be computed upon the income, &c., of the year preceding the year of assessment, and no provision was made in the 1926 Act for the case where a trade, profession, &c., has commenced within the period of two years immediately preceding the year next before the year of assessment, but this omission has now been made good by this section.

Sect. 28 of the 1927 Act. This section is really an adjustment consequent upon the change in the basis of assessment brought about by the Act of last year. Its purpose is to prevent taxpayers from being prejudiced by that change on account of losses in businesses set up and commenced after April 6th, 1923. Relief is granted in such businesses for losses in any year prior to 1926/27 and which, but for the passing of the Income Tax Act, 1926, would have come into average for the years 1926/27 or for both the years 1927/28 and 1928/29 to the extent of one-third of the loss, allowed against the assessment of year for which it would have come into average, provided that such relief does not exceed the excess of total assessments from the start of the business until the end of the year of claim, less any deduction allowed under this section, or under Rule 13, Schedule D, Cases I and II, over total profits from the first setting up of the business to end of year of claim, less losses, excepting those allowed to be carried forward under sect. 33 of the Income Tax Act, 1926, or the amount of any loss in respect of which relief is given under sect. 34 (1) of the 1918 Act. The effect of all this is to provide that whilst a business set up after April 6th, 1923, shall not be prejudiced by the change in the basis of assessment, at the same time there shall not be any additional advantage given by virtue of this section that would not have been got under the old system.

I will now leave these sections directly consequential upon the change in the 1926 Act and come to the changes new and introduced for the first time in the 1927 Act, but are but a continuation of the scheme of simplification.

The first can be referred to quite shortly.

Sect. 45, Income Tax Act, 1927, changes the basis of assessment for income falling under Schedule E (employment, offices) from its present basis of the current year to the basis of the year preceding the year of assessment and so bringing it into line with the basis of assessment under Schedule D.

There are exceptions to the application of this section, and it does not apply in the cases of (*a*) colonial officers' leave pay, (*b*) any office or employment held or exercised occasionally or intermittently in the United Kingdom by a person who is not continuously resident here, and in the case of the half-yearly assessments on weekly wage earners employed in manual labour.

Here again under this section there are provisions to allow for such adjustment as will render the change one of form only, and not of substance, and not prejudice the financial position of either the Revenue or of the taxpayer.

If a person's assessment under Schedule E for 1928/29, based on the previous year 1927/28, is in fact in excess of the income for 1928/29 it may, by giving notice in writing to the Inspector before July 1st, 1929, be reduced accordingly, but in that event 1929/30 will also be charged on the basis of the actual income of the year 1929/30.

I now pass on to what appear at first blush to be very formidable changes, but what upon closer examination turn

out to be changes in form and description rather than in substance. These changes are to be found in Part III of the Act, sects. 38-47, but I will not deal with each section separately necessarily, but explain generally the principle and effect of the alterations which will take place in consequence of this part of the Act.

You must not get alarmed at the substitution for the year 1928/29 and subsequent years of a new tax to be called surtax in place of the present super tax. Both taxes are really the same, only looked at from a different angle in order to fit in with the scheme of simplification.

For instance, the super tax for any one year is charged on the same basis as the income tax of the previous year. Thus, super tax for 1926 is charged on the same basis as the income tax of 1925, and might well be regarded as an additional income tax for the previous year. All that the change does is to make the super tax belong to the year upon which it is assessed, and to be regarded as deferred income tax for the same year. Apart from this there is no difference whatever. The basis of assessment is the same, the rate at which it is charged is the same, and the date at which it is payable is the same, though, it is true, there is this difference; that you paid the super tax for a year less than the number of years in which you were in receipt of a super taxable income, whereas you will pay surtax for exactly the same number of years as you receive it. The whole object of this change is to abolish the present system of separate returns and enable both the income and super tax to be expressed in the form of a single graduated tax on income.

In conjunction with these changes there have been brought about certain changes in the machinery in order to give fullest effect and facilitation to the practical working of the principle one man one return.

For example, in 1928 the return of total income from all sources will be compulsory. Hitherto you were not necessarily compelled in one return to make a return of total income from all sources (note not super tax). For instance, if you had a business in London and another separate one in Cardiff you could make separate returns for income tax in each case and need not disclose in either of them the existence and profits of the other business. However, in practice it meant that you did because you could not claim allowances unless you disclosed your total income from all sources, and if you did not claim allowances the Revenue at once became suspicious that you had other sources of income and were probably liable to super tax.

Again, this return of income from all sources will be delivered to the surveyor instead of to the assessor. This change has been brought about not so as to magnify and increase the powers of the Revenue officials at the expense of the assessors, but for the unification and centralisation of the machinery in order that the business of dealing with the single return shall be undertaken by a centralised organisation as opposed to numerous independent local assessors.

There is one point I might make clear at this stage in the event of any possible misapprehension.

Although during the year 1928/29 there will be an assessment for super tax and another for sur tax, there will not be two payments of the same tax under another name. Super tax for that year will, of course, be based on the previous year, 1927/28, and be payable on January 1st, 1929, and, although super tax, be the same as though it had been sur tax for 1927/28. But sur tax 1928/29 will be based on 1928/29, and will not be payable until January 1st, 1930.

I ought perhaps to mention another change which is one of form rather than of substance. Under sect. 40, 1927 Act, no actual change is made in the amount of relief allowed, but it changes the form of the relief in this way: Instead of as now arriving at the tax payable by first deducting from the total income assessable the amount of income allowed as free from tax, and then working out the amount of tax payable on the difference, you first work out the amount of tax payable on the total income and from that tax you deduct a sum equivalent to the tax on the amount of income allowed to be free of tax. In short, instead of dealing throughout the return on the basis of assessable income and only finally working out the amount of tax payable, you deal throughout in the terms of the tax payable, but there is no material change so far as the taxpayer is concerned, as it is merely a different way of arriving at the same result.

I want now to refer to sect. 39 of the 1927 Act, which, though it is in a somewhat different line of country from that which we have just been in, at the same time it is all part and parcel of the one scheme of simplification. Hitherto a great deal of trouble and complication has been caused in respect of income tax chargeable by way of deduction where the income has become payable when one rate of tax is in force, whilst another or other rates of tax have been in force over the period during which the income has been accruing. The consequence was that much work was thrown especially on companies in having to calculate the amount of tax payable by splitting up the income into the periods over which it had accrued and calculating the tax payable in accordance with the respective rates of tax in force at the time, and similarly, income accruing over two periods during which two different rates of tax were in force had to be split up for the purpose of making returns. This frequently resulted in confusing the taxpayer, who when he received from the company a notice that tax had been deducted at some odd sum, say 4s. 7½d. in the £1, he had not the slightest idea what it all meant. Now for the sake of simplicity it has been laid down under sect. 39, arbitrarily, that for the year 1928/29 and after deductions for tax from income chargeable to tax by way of deduction shall no longer be computed at the rate or rates in force over the period during which such income was accruing, but at the rate in force at the date at which the income becomes due. There is a proviso that this shall not apply to the deduction to be made under Rule 1, No. VIII in Schedule A—rents payable by a tenant occupier—nor shall it affect the first proviso of Rule 4, No. VIII in Schedule A—annual charges in Scotland due from the period ending May 15th.

Sect. 39, sub-sect. 2, further provides that all income chargeable with income tax by way or deduction at the standard rate in force for any year shall be deemed to be income for that year notwithstanding the fact that such income accrued wholly or partly in some other year. Under sub-sect. 3 of the same section the same rule similarly applies to the case where a person is charged with income tax in respect of profits, &c., out of which he has to make payment for royalties, &c., he shall in respect of such amounts to be paid less tax be charged with the standard rate only.

I will now proceed to deal with the second of my main headings—the provisions dealing with tax evasion—and I come to the two sects. 31 and 32, about which there was so much controversy during their passage through Parliament. The principle underlying sect. 31 is not new; it originated with the Income Tax Act, 1922, the intention of which was to put a stop to the abuse of the advantageous and privileged position of the private company for the purpose of evading super tax. Sect. 31 is for all practical purposes no more open to objection than sect. 21 of the Income Tax Act, 1922, and on examination both sections will be found to be in principle quite fair, especially in comparison with the treatment of private firms and individual traders, who have

to pay the whole taxation (income tax and super tax) on the net profits of the year. The new section has been introduced for the express purpose of extending and strengthening the application of sect. 21 of the Income Tax Act, 1922, and is consequently of much wider effect as the range of companies to which it refers is considerably larger. Sect. 21 of the 1922 Act applied only to companies formed after April 5th, 1914, and in which the number of shareholders was not more than 50, and which had not issued any of its shares as a result of a public invitation to subscribe for shares, and which was under the control of not more than five persons, but sect. 31 of the 1927 Act will apply to any company if in fact controlled by not more than five persons, and which is not a subsidiary company or a company in which the public are substantially interested. A company is deemed to be a subsidiary company if by reason of the beneficial ownership of the shares the control of the company is in the hands of a company or companies not one of which is itself within the provisions of this section.

A company is deemed to be a company in which the public are substantially interested if shares (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than 25 per cent. of the voting power, having been allotted or acquired unconditionally by and are at the end of the year or other period for which the accounts of the company are made up beneficially held by, the public (not including a company to which the provisions of this section apply), and any such shares have in the course of such year been quoted on the Stock Exchange.

It is important to observe also the effect of the paragraph added by sect. 31 in relation to the proviso contained in sect. 21 of the 1922 Act. The proviso reads:—"In determining whether any company has or has not distributed a reasonable part of its income, the Commissioners shall have regard not only to the current requirements of the company's business, but also to such other requirements as may be necessary or advisable for the maintenance and development of the business." Sect. 31 specifically includes as "Income available for distribution, and thereby excludes from being regarded as income applicable to the current requirements or such other requirements as may be necessary for the maintenance and development of that business, any sum out of the income of the company expended or applied—or intended to be expended or applied—in the payment for the business undertaking or property which the company was formed to acquire, or which was the first business, undertaking or property of a substantial character acquired by the company; in the redemption of debt; in the pursuance or in consequence of any fictitious transaction. This definition does not include sums applied to meet obligations under pre-war contracts."

The inclusion of all companies, whether registered before 1914 or not, will put a stop to the practice of hawking pre-1914 companies which were used for the express purpose of evading super tax.

This section also deals with the ingenious methods of tax evasion brought to light without avail by the Revenue Authorities in the cases of *Whitmore* v. *The Commissioners of Inland Revenue* (10 T.C., page 645) and *Hall* v. *The Commissioners of Inland Revenue* (11, Tax Cases, part 1, page 24).

There is under sect. 31 a variation in the procedure where the Special Commissioners have issued a notice requiring a company to furnish them with particulars. The directors may make a statutory declaration giving reasons for their opinion that there has not been an avoidance of super tax, and the former provisions dealing with the certificate by the company's auditor have been cut out. The declaration is sent to the Special Commissioners who need not, unless they see reason to the contrary, take any further action in the matter. But if the Commissioners do see reason to the contrary they shall send to the Board of Referees a certificate to that effect, together with the statutory declaration, at the same time sending copies of the certificate and the declaration to the Commissioners of Inland Revenue, who may within 28 days of its receipt submit a counter statement. The Board of Referees, after considering the declaration, the certificate, and the counter statement, are to determine whether there is a *prima facie* case for proceeding or not.

The possible manipulation of inter-connected companies for the purpose of tax evasion is covered by sect. 32, so that where a member of a company is itself a company the process of apportionment of the profits continues until you arrive at last at the actual individual shareholder who is the real beneficiary, and who is by this section made liable to taxation.

Sect. 33 is designed to prevent the avoidance of super tax by sales *cum* dividends, and is aimed at the individual who sells shares on the eve of the payment of dividend and repurchases them minus dividend to avoid the interest coming to him in the form of taxable income. The Special Commissioners may require an individual to furnish a statement of all his capital assets, and "if it appear to the Special Commissioners by reference to all the circumstances in relation to the assets to that individual (including circumstances with respect to sales, purchases, dealings, contracts, transfers, or any other transactions relating to such assets) the individual has thereby avoided or would avoid more than 10 per cent. of the amount of super tax for any year which would have been payable in his case if the income from those assets had been deemed to accrue from day to day and the income so deemed to have been apportioned to him had been treated as part of his total income from all sources for the purposes of super tax, then the income from such assets shall for the purposes of assessment to super tax, and in the case of the sale or transfer of any such assets by or to him shall be deemed to have been received as and when it is deemed to have accrued." There is added this proviso by way of exception and relief: "that an individual shall not be liable to be assessed to super tax under this section in respect of any such income if he prove to the satisfaction of the Special Commissioners that the avoidance of super tax was exceptional and not systematic, and that there was not in his case in any of the three next preceding years any such avoidance of super tax" by sales *cum* dividends.

Assets for the purpose of this section are defined as being:—

(*a*) Stocks or securities entitled to interest or dividend at a fixed rate only, not being stocks or securities the interest or dividend on which is dependent on the earnings of a company; and

(*b*) Any other stocks or securities, and any shares, if transactions in relation thereto have been effected by the individual otherwise than through a Stock Exchange in the United Kingdom, by a transfer on which duty has been paid at the rate of £1 per cent. under the heading "conveyance or transfer on sale in the first Schedule of the Stamp Act 1891."

There is reciprocity on the part of the Revenue and relief is given in the case of a purchase *cum* dividend where the applicant proves to the Special Commissioners that, in consequence of the sale or transfer to him of any assets, the amount of super tax payable by him for that year exceeds by more than 10 per cent. the amount of the super tax which would have been payable by him for that year, if the income from those assets and from any assets sold or transferred by him were deemed to have accrued from day to day, then, for the purposes of any assessment to super tax in the case of that

individual for that year, the income from all such assets shall be deemed to have accrued from day to day and to have been received by him as and when it is deemed to have accrued.

It only remains for me to deal with my last heading of Miscellaneous, under which I will very briefly refer to certain outstanding sections of the 1927 Act.

Sect. 21 needs only a word. Property tax, Schedule A, with the exception of tax chargeable in respect of income which is, or is to be treated as, earned income, such as a vicarage, is now payable in one instalment instead of two. The reason is that now the tax has gone down it will not in any one quarter be greater than the quarter's rent.

Sect. 24. This is concession to meet the case *Brighton College* v. *Marriott* (1926) A.C. 192), sect. 30, Income Tax Act, 1921, amended, and now profits of trade carried on by and applied solely to the purposes of the charity are exempted from assessment under Schedule D. "If trade is exercised in the course of actually carrying out a primary purpose of the charity.

Sect. 25. This is aimed at the foreign author who extracted royalties, &c., from this country and paid no tax. These royalties not being paid out of profits were not assessable. This section provided that the payer must deduct the tax and pay it to the Revenue, but it does not apply to copies published for export and distribution abroad.

Sect. 26. This meets the decision in the case of *In re Lang Propeller* (1927) 1 Ch., 120). Taxed deductions from interest, &c., not paid out of taxed profits heretofore treated as Crown debts not needing assessment will now be assessed so as to give Crown priority in winding up. (Retrospective.)

Sect. 27 grants for the first time relief for casual losses, but be it noted that casual losses can only be carried forward and set off against casual profits.

Sect. 29 grants relief where a man turns his business into a company of which he is mainly and substantially the owner. If prior to the formation of the company he has sustained losses this section enables him to carry forward his losses and set them up against the profits derived from the company.

Sect. 34 grants a measure of relief where the income received from certain assets in one year had accrued over a period of more than one year. This was enacted to meet the case of where the dividends on shares for two years were received in the same tax year. If the super tax payable by him exceeds by more than 5 per cent. what he would have had to pay if his income had accrued from day to day he may get the Special Commissioners to adjust his assessment to super tax as they deem just.

Discussion.

Miss G. C. Cox, Incorporated Accountant: I would like to put one question. I have a case before me at the present time in which a company sent in its accounts for 1926 and now the Inspector wants to know whether there were any royalties paid to foreign authors. The trouble is that the company had no idea about this deduction of tax during 1926; the royalties had been paid abroad and no deduction made. Another question comes to my mind. A certain person asked me what I would advise in a case like this. A friend of theirs is resident in this country and he is a partner in a foreign concern. His partner is domiciled abroad and stoutly refuses to have any disclosure of the condition of the foreign business in this country. Of course, he wants to make a return, but he is a little bit doubtful as to what to do.

Mr. WILLIAMS: Your second question does not really arise this evening, but I will do my best to answer it. With regard to the first question, I take it the royalties have already been paid for 1926. This section is not retrospective, but it will apply to 1927-28. Of course the liability will be upon the payer, so if he has paid all the money out without deducting tax, I am afraid he can only rely upon carrying it forward and deducting it from his next payment of royalties.

Miss Cox: Is the Inspector within his rights in claiming the tax on the previous year?

Mr. WILLIAMS: No; the section, as I say, is not retrospective. It does not apply to royalties paid during 1926; it only takes effect in respect of 1927/28. It is intended to stop a gap. It applies to royalties paid as liabilities; *i.e.*, the royalties not paid out of taxed profits and treated by the people who paid them as liabilities. Of course if they had been paid out of taxed profits they would have been got at in the usual way—there was a procedure for getting at them—but royalties which were paid, not out of taxed profits, were treated as liabilities and were assessable, but there was no adequate means of securing their collection and so the foreign author escaped. This section applies to 1927 and onwards. As regards your second question, if I remember rightly, the agent here is responsible for making the return.

Miss Cox: His partner is objecting so loudly that he does not want to do it. It is a foreign firm.

Mr. WILLIAMS: A foreign firm carrying on business in this country?

Miss Cox: No; carrying on business on the Continent. The partner lives in this country and has a share of the profits, but the foreign partner says he is not going to have his business affairs disclosed to the British income tax authorities.

Mr. WILLIAMS: The partner only has to pay on the profits which are remitted here. Supposing the business is in France and the profits are made and left in France, there is no need for disclosure, because the partner in this country only has to pay on those profits which are remitted to this country. Directors of foreign firms do not have to pay tax on fees earned abroad if they are left in the foreign country, but if they are remitted to this country then they have to pay on such amount as is remitted.

Mr. W. D. ELGAR, F.C.A., Incorporated Accountant: With regard to the retention of tax from royalties, the Inland Revenue have issued a memorandum giving guidance as to the working of the deduction in practice. I have for years advocated the deduction of tax from authors' royalties, and it is as the result of the strong feeling in the matter that legislation has been forthcoming. The foreign authors have, of course, always been liable to assessment on royalties derived from this country, but the difficulty has been the collection of the tax, owing to the absence of the necessary machinery, a defect that has now been remedied. Should the royalty due to a foreigner be payable to an agent here, his receipt being in full satisfaction, the tax (under the present Act) must nevertheless be retained by the payer. Heretofore the agent has in practice been held responsible to the Revenue to make a return of royalties paid to foreign authors, but this has now to be done by the payer who must account for all tax deducted. In the event of the foreigner suffering the agent's commission, he may presumably make a claim for the refund of the tax applicable to this expense.

Mr. W. F. EDWARDS, Incorporated Accountant: I should be pleased to have the Lecturer's opinion as to whether, in computing, for the purposes of sect. 28 of the Act, the total assessments which have been made on a new business, relief granted under Rule 8 (1) shall or shall not be deducted. Sub-sect. 3 of sect. 28 defines the total assessments but omits any reference to Rule 8 (1). The point is, you cannot get relief to an extent greater than the difference between your total assessments and your net profits. What are the total assessments? Are they the assessments before obtaining relief under Rule 8 (1), or are they the assessments after obtaining that relief?

Mr. WILLIAMS: I am afraid I should want notice of that question.

The CHAIRMAN: The matter is rather complicated, and involves carrying Rule 8 (1) entirely in mind as well as the new provisions, which it is very difficult to do.

Mr. J. AUERBACH: I should like to ask the Lecturer what right the Inland Revenue has for demanding that the taxpayer should make the claim required by sect. 29, sub-sect. 3, and not the accountant in charge of the case.

The CHAIRMAN: Has any Inspector objected?

Mr. AUERBACH: Yes.

The CHAIRMAN: It is not usual.

Mr. ELGAR: I can quite conceive of a case where a claim put in by an accountant may eventually turn out to be detrimental to the client, and the taxpayer may turn round afterwards and say "I never agreed to it." Where it is a company, they do admit the firm of accountants who have been in the habit of making the return, but in individual cases they insist on the taxpayer agreeing personally or signing a letter to that effect.

Mr. WILLIAMS: The taxpayer is not given the opportunity of saying "I never prepared the statement," and then throwing the blame on the auditor. I think that is the object behind it.

Mr. AUERBACH: If a firm is changed into a limited company, does that affect the assessments under sub-sect. 3 of sect. 29?

The CHAIRMAN: At what stage do you suggest the business was converted into a company? Was it during the six years, or was it afterwards?

Mr. AUERBACH: During the six years.

The CHAIRMAN: And it has been treated as a succession in the meantime?

Mr. AUERBACH: Yes.

The CHAIRMAN: Your question is, having been treated as a succession when the new company was formed, is it still to be treated as a succession?

Mr. AUERBACH: Yes.

Mr. WILLIAMS: I think you can. That is the object of the section.

Mr. A. G. IRONS: I would like to make sure with regard to the question of the rate of deduction of tax. Where a company declares a dividend, say, for the year ending December 31st and it is not paid until April of the following year, must they deduct the rate of tax in force for that particular income tax year, or the rate in force during the year that the dividend covers.

The CHAIRMAN: Are you asking whether the rate of tax is going to be the rate in force during the period that the income was accruing out of which the dividend was paid, or the rate ruling at the time it was paid? Was that your point?

Mr. IRONS: Yes.

Mr. WILLIAMS: The rate of tax to be applied is the rate in force at the time the dividend is paid. If there are two rates of tax in force during the time over which a dividend is accruing, the rate of tax payable will not have any regard to any rates which may have been in force during the time the dividend was accruing, but it has been fixed arbitrarily as the rate in force at the date upon which the dividend is paid.

Mr. IRONS: It all turns on the time the dividend is paid?

Mr. J. A. PLUMPTON, Incorporated Accountant: Say a dividend is declared on March 31st when the tax is 5s. in the £ and it is paid on April 7th when then the tax is 4s. in the £.

Mr. WILLIAMS: The answer is, I should have said, not when it is paid, but when it becomes due—the rate in force at the time it becomes payable.

Mr. PLUMPTON: Supposing the dividend is for the year ending December 31st—a 10 per cent. preference dividend—it is a fixed amount and you know what it is; but for some reason or other it does not fall into the hands of the beneficiary until after April 5th.

The CHAIRMAN: When was he entitled to it?

Mr. PLUMPTON: That is the point. The date of payment depends very often upon whether the company has sufficient ready money to pay the dividend.

Mr. WILLIAMS: I see your point now. Of course some difficulty may arise over that. The Act says "the standard rate for the year in which the amount payable becomes due." In the case I have in mind the 10 per cent. preference dividend is really due on January 1st, but an ordinary dividend would probably have to wait until the accounts were got out to find out the amount of it. It is just one of those little points that arise in one's mind.

Mr. EDWARDS: You might have debenture interest due on December 31st in each year. Assume interest due in December, 1924 not paid until July, 1928. In such a case, what would be the rate of deduction—the rate when it is paid, or when it became due?

Mr. WILLIAMS: According to the Act, it is when the amount payable became due.

Mr. EDWARDS: That shows that we shall still have varying rates.

The CHAIRMAN: You could not have two rates under this new Act; it must be the rate at some given date, and that could not be two rates.

Mr. WILLIAMS: The rate of tax payable will be the rate in force at the time the dividend was payable and became due. Whether it is paid five years hence, or three days hence, will not affect it.

Mr. EDWARDS: Quite so, but at first sight the object of the section is to make all one's income in a given year suffer the same rate of tax.

Mr. WILLIAMS: Not necessarily.

Mr. EDWARDS: Then it will be possible to have income suffering varying rates of tax.

Mr. WILLIAMS: The object is to fix the tax at the rate in force when the dividend becomes payable.

The CHAIRMAN: The Finance Act, 1927, is a very difficult one to understand. The wording is frequently involved and there is amendment by reference which is nearly always unsatisfactory. There is one section in it which has got rather less attention I think than it deserves, and that is the section dealing with buying and selling shares *cum* dividend or *ex*-dividend. The Inland Revenue authorities have got powers under that section which we shall all hear a great deal about. I daresay accountants will get work out of it, but I am disposed to think that the individual taxpayer has not at present realised what is involved in it, because the Special Commissioners have very wide powers of inquiring into and getting any information they may require about the income a person receives from all sources. Although in some cases the taxpayer may be under no additional liability for tax, he will have to supply the information, and it is the supplying of the information that is going to cause the trouble, because, as we all know, many people do not keep very exact records of the income they receive in dividends or in any other form. They will have to supply it before they can satisfy the Inland Revenue that there is no liability. It was stated on behalf of the Government, when this section was before Parliament, that there was no intention to enforce it except in special cases. That may be so, but once an enactment is on the Statute Book you will find that in a year or two it will be enforced in the majority of cases, because the Revenue authorities will naturally say they cannot make invidious distinctions. Another thing I am rather interested in is the new forms that are to be issued—new forms of Income Tax returns. In effect there will, I understand, be only one return for both income tax and what is now to be called sur-tax. Some time ago the Inland Revenue asked for suggestions for the improvement of the income tax forms which were then in use, and the Society appointed a sub-committee to make recommendations. I remember going before a Government Committee with the forms which were drafted on the Society's behalf. These forms, it is now interesting to note, provided for only one return for income tax and super tax. The Government Committee did not criticise them, but they said, "Some of the provisions you contemplate in these forms would not coincide with the present law." That was the only objection they expressed, and I am rather interested to see whether the forms to be issued next year will not very closely resemble those we submitted to them. If there is anything further the Lecturer would like to say, he will now have the opportunity, but I think he has already replied to most of the questions.

Mr. WILLIAMS: I hope that I have in some measure made the Act clear. I personally find it exceedingly difficult to appreciate any of these clauses at the first reading, as it certainly is very involved and requires most careful consideration.

On the motion of Mr. W. Norman Bubb, seconded by Mr. W. Holman, a cordial vote of thanks was passed to Mr. Heathcote Williams for his lecture, and the Chairman was also thanked for presiding.

CLAIM FOR ACCOUNTANCY WORK.

In the Mayor's and City of London Court, before Judge Shewell Cooper, on November 8th, Mr. F. F. Sharles, Incorporated Accountant, 52, Queen Victoria Street, London, E.C., brought an action against the British Trust Banking Company, Limited, 61, Moorgate, London, E.C., claiming £55 16s. for professional services rendered as an accountant. The plaintiff said that he agreed with Mr. B. P. Maisel, managing director of the defendant company, to check a balance-sheet for the year ending December 31st, 1925, and to write up the books and prepare a balance-sheet for the year ending December 31st, 1926. Witness did some work himself, and had a clerk to do the routine work, and make daily reports to witness. Mr. Maisel told witness that the auditors of the defendant company were a well known firm, and he (Mr. Maisel) did not want the accounts presented to that firm in a condition likely to cause the auditors to give a qualifying report after their audit. The work done by witness and his clerk was carried out in a thorough manner, and he thought Mr. Maisel was somewhat annoyed as witness was not complacent enough for him. A few details in the accounts remained incompleted because they were dependent upon information which Mr. Maisel did not supply. Witness was asked, in cross-examination, whether Mr. Maisel did not order plaintiff's clerk off his premises for revealing information to a third party in the course of the work, but Mr. Sharles said that he knew nothing of such an occurrence. Neither did he know that his clerk had wrongly handed over to a third party certain securities which he had received from Mr. Maisel. The securities were merely returned to the source from which they were received for verification purposes. Mr. A. A. McManus, plaintiff's clerk, gave evidence of the work he did for the defendant company, and said that he worked in a room on the first floor which was tenanted by a gentleman who had associations with the defendant company. The defendants' premises were on the ground floor. The suggestion that he had made disclosures regarding the defendants' business to the third party referred to was absurd, and witness denied that he was spoken to by Mr. Maisel about it. With regard to the allegation that witness had handed securities which he received for verification purposes from the defendant company to another company, witness said he was given the securities by Mr. Sharles out of a safe, and he returned them to the same place.

Mr. B. P. Maisel contended that the plaintiff had agreed to do all the work for 20 guineas. He denied that there was a separate arrangement with regard to the 1926 accounts as alleged by the plaintiff. The defendant company disputed payment because on one occasion witness went to the room where the plaintiff's clerk was dealing with the defendants' books, and a Mr. Gottlieb, who had dealings with the defendant company, was looking at the books. Witness contended that that was improper conduct on behalf of the plaintiff's agent. With regard to the securities, the defendant company held certain shares as a guarantee for a loan from another company, and the plaintiff's clerk had handed these securities to the defendant company's debtors. Answering the Judge, the witness said that the defendant company had regained possession of them.

Judge Shewell Cooper held that the defendants had agreed to pay 20 guineas for the work in connection with the 1925 balance-sheet, but upon the evidence there was nothing to show that any agreement had been arrived at with regard to the 1926 accounts. Dealing with the allegations of improper conduct on the part of plaintiff's clerk, his Lordship said that he had listened carefully to the evidence and was perfectly satisfied that no such disclosures as alleged by the defendants had taken place. As to the incident with regard to the securities, his Lordship said that anything which took place, in his view, was not of sufficient gravity to justify the defendants in refusing to pay the plaintiff's account. Immediately the plaintiff had finished work for the defendants, correspondence took place on these matters in April of this year. But it was significant that nothing was said about the affair until the plaintiff sent in his account in July. The plaintiff was clearly entitled to 20 guineas for the work on the 1925 accounts, and to a fair and reasonable remuneration for the work he had done on the 1926 balance-sheet. In his view justice would be done if he gave the plaintiff judgment for a total sum of £42, with costs. Judgment was entered accordingly.

VOLUNTARY LIQUIDATION.

Petition for Compulsory Order Refused.

This was a petition by a creditor asking for the voluntary liquidation of the Technological Institute of Great Britain, Limited, to be superseded by a compulsory winding-up. The petition was presented on October 28th, 1927. On June 13th, 1927, the company had gone into voluntary liquidation, Mr. Thos. Froude, F.C.A., F.S.A.A. (Oscar, Berry, Froude & Co.), being appointed liquidator.

Mr. Justice Romer said: The only question is as to whether the company shall be wound up voluntarily in accordance with the resolution or shall be wound up compulsorily? That is a matter upon which the wishes of the majority of the creditors are *primâ facie* to prevail. Of the creditors, a small majority in value and an overwhelming majority in number, are in favour of a voluntary liquidation. Notwithstanding that, having regard to the amount of the petitioner's debt, if I came to the conclusion that notwithstanding the wishes of the majority in number and value of the creditors, the creditors really would be prejudiced by the continuance of the voluntary winding-up, I should make an order for the compulsory liquidation of the company.

Now I turn to the petition and I find the petitioner alleging the creditors will be prejudiced on three grounds. He says in the first place that the liquidator "has contracted a loan for £1,500 on extravagant terms and has refused to give your petitioner any particulars as to the lender." I think particulars have long since been given, or have in fact now been given. It appears, when the liquidator was appointed, the petitioner, who was at that time an unpaid debenture holder of the company, the only debenture holder of the company, had taken possession of all the assets of the company by means of a receiver. All the liquidator knew at that time was that the receiver, in consequence of the liquidation was threatening to sell the assets, as I read the letter of June 29th, at a break-up value. It was therefore essentially in the interest of the unsecured creditors that the debenture holder should be got rid of if possible. Unknown to the liquidator there were circumstances existing at that time which rendered it all the more important and all the more essential in the interest of the unsecured creditors that the debenture holder should be got rid of because it appears that the debenture holder's receiver—I cannot help thinking with the full knowledge of the debenture holder—was, in the first place, utilising a room for which the Institute was paying rent or the purposes of carrying on a business of his own, a commercial college, and that the receiver was writing to people who were interested in the Technological Institute, suggesting that as the Institute had gone into voluntary liquidation it was no longer possible to enrol the students, and that in lieu of enrolling in the Technological Institute student should enrol in this commercial college. I entirely

acquit the liquidator of any impropriety in his conduct in connection with the raising of this £1,500 or the settling of the terms of that loan.

The second matter of which complaint is made is that the liquidator "has agreed to dispose of the business of the company upon terms that he shall be employed by the purchaser for fifteen years at the remuneration of £250 a year, and has refused to give your petitioner any particulars as to such sale except that the price is stated to be £7,500." It will be observed that there is no statement made there that the £7,500 is an under value, and for very obvious reasons, because long before the £7,500 or the offer of the £7,500 was accepted, the petitioner had himself been endeavouring to acquire the business for a very much less sum than £7,500 and among the offers received by the liquidator an offer was received from the petitioner himself of £4,050, and when he heard of this offer of £7,500, and was invited by the liquidator to make an advance on his own offer if he thought fit, he said it was not worth £7,500, and he would not offer a penny more than his own offer, which was £4,050. I am not surprised it is not alleged in the petition the £7,500 is an under value. What is alleged is—and it is a disgraceful allegation if it be a true one—that the liquidator has negotiated the sale on the terms that he himself is to derive some pecuniary benefit from it. I am glad to say there is no ground whatsoever for the charge that has been made. When the matter is investigated it appears that the purchaser was not in a position to pay the £7,500 down at once, nor has any purchaser been willing to do that so far as I know, and least of all the petitioner; he is to pay something down at once and the rest to be secured. It appears the purchaser is not proposing to carry on this business in his own name, but to form a company for the purpose. The company will acquire the business from the liquidator, and the company, by way of securing the payment of the purchase price, is willing to give debentures, the liquidator very properly stipulating the Institute must have some opportunity of watching over the conduct of the affairs of that company of which it is to receive debentures and has stipulated he shall be a director. His remuneration as a director is to be fixed in accordance with accountancy charges, that is to say for the work he does as a director he is going to be paid as though an accountant employed to do the work, and he has stipulated that his charges for the work, which of course are going to be paid by somebody—he is not going to do the work for nothing—shall be paid by the purchasing company, and so the assets of the Institute will not have to provide for his remuneration. There is nothing in that charge.

The final charge is a more ridiculous one still. "He has admitted for the purpose of voting an unjustifiable claim of the said Gerald Louis Bonnaud to rank as a creditor for the sum of £2,800." A statutory meeting of creditors took place after the voluntary liquidation; the liquidator had not time to investigate closely all the claims of the creditors; he had to form some sort of estimate of the amount entitled to vote, and he estimated the amount in respect of which Mr. Bonnaud was entitled to vote at rather a higher sum, perhaps twice as much as appears now as the claim of Mr. Bonnaud in fact. A more ridiculous charge was never made against a liquidator in a voluntary liquidation.

I wish to say this finally. I do not regard this petition as a *bonâ fide* attempt on the part of a secured creditor to get in favour of the unsecured creditors as a whole a more favourable liquidation than he will get by means of a voluntary winding up. I regard this petition as a last step in a campaign which the petitioner has been waging ever since the voluntary liquidation of this company has begun to get by some means or another the business of this company into his own hands. I dismiss the petition with costs.

District Societies of Incorporated Accountants.

BRADFORD.

ANNUAL MEETING.

The annual general meeting of this Society was held recently, when the report and accounts for the year ending June 30th, 1927, were adopted. The following officers were elected for the ensuing year:—President, Mr. J. W. Reynolds; Vice-Presidents, Mr. J. Rhodes and Mr. W. A. Horsfield; Hon. Treasurer, Mr. T. Hudson; Hon. Auditor, Mr. A. E. Stringer: Hon. Librarian, Mr. G. R. Lawson; Hon. Secretary, Mr. H. Reynolds; Hon. Assistant Secretary, Mr. T. M. Rhodes; Committee, Mr. Geo. R. Lawson, F.S.A.A., Mr. D. McL. Wriglesworth, F.S.A.A., Mr. E. Longbottom, A.S.A.A., Mr. T. C. McNair, A.S.A.A., Mr. W. A. Heaton, A.S.A.A., Mr. C. E. Thomas, A.S.A.A.; Students' Committee, Mr. Corlett, Mr. Knowles, Mr. Nicholson, Mr. Wilson.

After the business meeting a smoking concert was held.

Arrangements have been made by the District Society to hold monthly luncheons, the first of which took place on November 22nd. It is hoped these monthly luncheons will give the members an opportunity of meeting one another, and the Committee look to practising members in the district to give their support to the arrangements made and to the lectures and meetings.

Three lectures have been held since the opening of the session, and have been well attended.

Report.

The Committee have pleasure in submitting the thirteenth report of the Society's proceedings for the year ended June 30th, 1927.

LECTURES.

Eight meetings and lectures were held during the year.

There was a satisfactory attendance of student members at all the lectures, particularly at that addressed by Mr. Raymond Needham, arranged jointly with the Chartered Accountants' Students' Association. The success of this venture has encouraged the Committee to extend the principle during the current year.

COACHING CLASSES.

The classes at the Technical College for students preparing for the Parent Society's examinations had a satisfactory commencement. It is felt that it will be of considerable advantage if members will bring these classes to the notice of their staffs.

MEMBERSHIP.

The Committee regret there is a slight decrease in the total membership for the year, now 134. Mr. S. M. Rix and Mr. N. B. Williamson, both of whom have been enthusiastic supporters of the Society and have served on the Committee, have left Bradford. It is essential that there should be a steady flow of student members to the Society, and all candidates for the Society's examinations should be registered as members.

CONFERENCES OF REPRESENTATIVES OF DISTRICT SOCIETIES.

The Society has been represented at these conferences by the Hon. Secretary, and at the conference held on May 20th, 1927, by Mr. G. R. Lawson also. The original scheme for the improvement of District Society organisation was the chief matter discussed at each conference, and the scheme, after slight amendment, has been submitted to the Council of the Parent Society, and will doubtless be the subject of a report by them in due course.

VISIT OF THE VICE-PRESIDENT.

Mr. Henry Morgan, Vice-President of the Society of Incorporated Accountants and Auditors, honoured us by a visit on March 31st, when he read a paper before a large audience on "Published Balance Sheets." On the following day he was entertained to luncheon. After lunch a general discussion on the affairs of the Society took place, which proved of great interest to all present. It is hoped to arrange similar luncheons for members periodically during the winter months.

PRESIDENTIAL BADGE.

A badge, made to a design drawn by the Hon. Secretary (Mr. H. Reynolds), has been purchased, which the President will

wear on suitable occasions. Mr. W. Claridge, as President of the Society from 1910 to 1926, was formally invested with the collar by Mr. Henry Morgan before delivering his lecture on March 31st. Mr. Claridge afterwards handed the badge over to his successor, Mr. Joseph Smith. A replica of the badge was subsequently handed to Mr. Claridge as a mark of appreciation of his services as President for so long a period.

SOCIAL EVENTS.

A second annual supper and dance was held at the Midland Hotel on February 15th, which proved an exceedingly enjoyable function.

The student members have during the summer months played a number of cricket matches with members of kindred societies.

EXAMINATION RESULTS.

Thirteen members have been successful at the Intermediate and Final examinations of the Parent Society. The hearty congratulations of the Committee are tendered to all these members.

Syllabus of Lectures.

1927.		
Oct.	12th.	Annual General Meeting.
Oct.	26th.	"The Introduction of the Mercantile Law of Insurance into Common Law," by Mr. G. L. Haggan, Common Law Lecturer, Leeds University. *Chairman:* Mr. J. J. Wright, LL.B.
Nov.	7th.	"Bills of Exchange," by Mr. J. W. Raynor, Solicitor. *Chairman:* Mr. D. McL. Wrigleworth, F.S.A.A.
Nov.	22nd.	"Foreign Exchange Operations," by Mr. M. S. Herries. *Chairman:* Mr. H. A. Horsfield, F.S.A.A.
Dec.	6th.	"Bradford's Wool—Its Nature, Treatment and Uses" (Joint Lecture), by Mr. Edford Priestley, at the Midland Hotel.
Dec.	20th.	"Money," by Mr. Geo. R. Lawson, B.Com., F.S.A.A., at the Liberal Club. *Chairman:* Mr. Tom Hudson, F.S.A.A.
1928.		
Jan.	3rd.	"Income Tax, with special reference to the Finance Acts, 1926 and 1927," by Mr. Geo. R. Lawson, B.Com., F.S.A.A., at the Liberal Club. *Chairman:* Mr. F. R. Thurlow, B.Sc., F.S.A.A.
Jan.	20th.	"Costing," by Mr. Stuart M. Rix, A.S.A.A., at the Liberal Club. *Chairman:* Mr. L. B. Smith, A.S.A.A.
Feb.	7th.	"Insolvency Practice" (Joint Lecture), by Mr. Thomas Keens, F.S.A.A. (President, Society of Incorporated Accountants and Auditors), at the Midland Hotel. *Chairman:* Mr. J. W. Reynolds, F.S.A.A.
Feb.	8th.	Dinner of the District Society at the Midland Hotel.
Feb.	21st.	Joint Debate with the members of the Chartered Accountants' Students' Association and the Law Students' Society, at the Midland Hotel.
Feb.	28th.	"Deeds of Arrangement," by Mr. Albert E. Stringer, F.S.A.A., at the Liberal Club. *Chairman:* Mr. Joseph Rhodes, F.S.A.A.
Mar.	16th.	"Income Tax" (Joint Lecture), by Mr. Raymond Needham, at the Liberal Club.

The joint lectures have been arranged under the joint auspices of the Bradford Chartered Accountants' Students' Association, the Bradford Law Students' Society, the Bankers' Institute (Bradford Centre), and the Bradford and District Incorporated Accountants' Society.

LIVERPOOL.

Syllabus of Lectures.

1927.		
Oct.	13th.	"Income Tax," by Mr. Charles Tunnington, F.S.A.A.
Oct.	20th.	"The Incidence of Taxation before and after the War," by Mr. D. Caradog Jones, M.A., F.S.S.
Nov.	2nd.	"Modern Building Society Work," by Mr. Stanley W. Hanscombe, M.B.E., A.S.A.A.
Nov.	17th.	"The New Law of Property Act," by Professor Lyon Blease.
Nov.	30th.	"Bills of Lading and other Documents of Title," by Mr. Alfred B. Williams.
Dec.	14th.	"The Gold Standard," by Mr. Stanley Dumbell, M.A.
1928.		
Jan.	5th.	"Debentures and other Forms of Security," by Mr. G. Justin Lynskey, LL.M.
Jan.	19th.	"Bankruptcy (Amendment) Act, 1926," by Mr. E. D. Symond, Official Receiver, Liverpool.
Feb.	2nd.	"The Work of the Stock Exchange," by Mr. J. Hunter.
Feb.	16th.	"Accounts as a Method of Control," by Mr. Patrick Taggart, F.S.A.A.
Feb.	23rd.	"Present Day Tendencies of Industrial and Commercial Development," by Mr. W. H. Coates, LL.B., B.Sc. (Econ.).
Mar.	7th.	"Organisation, &c., of Departmental Store," by Mr. F. J. Marquis.
Mar.	22nd.	"Depreciation," by Mr. Charles R. Whitnall, F.S.A.A.

Meetings will be held at 6.15 o'clock each evening at the Reform Club, Dale Street, Liverpool.

MANCHESTER.

ANNUAL MEETING.

The 41st annual meeting of this Society was held on October 28th, when the report, of which a summary appears below, and the accounts for the year ended July 31st, 1927, were submitted and approved.

The retiring President (Mr. George A. Marriott) was succeeded in office by the Vice-President (Mr. Albert Chadwick, F.S.A.A., of Messrs. E. O. Mosley & Co., Bury). A Past President's badge was conferred upon Mr. Marriott, and a hearty vote of thanks accorded to him for his services during his term of office.

Mr. Jas. A. Hulme, F.S.A.A., was elected Vice-President, and Mr. Joseph Turner, F.S.A.A. (Alfred Nixon, Son & Turner), was elected Hon. Treasurer. Mr. Arthur Hankinson, A.S.A.A. (City Treasurer's Office, Manchester), and Mr. Horace B. Leah, F.S.A.A. (Stockport), were appointed Hon. Auditors.

The following retiring members of the Committee were re-elected: Mr. Jas. H. Lord (Bacup), Mr. George A. Marriott, Mr. Halvor Piggott and Mr. Fred Walmsley.

Mr. Godfrey Craven, Mr. Arthur Hayward and Mr. Alfred Southern were added to the Committee in place of Mr. Atkins, Mr. McKellen and Mr. Shepherd.

Reference was made to the Conference of Incorporated Accountants recently held in Manchester, and the Committee were congratulated on the very successful arrangements that had been made in connection therewith.

Report.

The following are extracts from the report:—

The Committee present to the members the following report on the work of the Society for the year 1926-27.

MEETINGS.

There were eight meetings of the members and six of the Committee. The 40th annual meeting was held on October 22nd, 1926. Mr. George A. Marriott was re-elected President, and Mr. Albert Chadwick (Bury) Vice-President.

MEMBERSHIP.

There has again been an increase of membership, the number at July 31st being:—

Practising members in the City of Manchester and the City of Salford	84	
Practising members outside the Cities	34	
		— 118
Non-practising members (ordinary)		68
Student members		37
Total Membership Roll		223

LIBRARY CATALOGUE.

There being no additions to the library, other than certain annual publications mentioned in the Librarian's report, it has not been considered necessary to again reprint in this report a catalogue of books in the library. Such catalogue will be found on pages 18-23 of the 40th annual report, 1926.

Members are reminded that if unable to call at the library facilities are offered for books to be sent to them by post, the Librarian will pay outward postage, but the books must be returned at the borrower's expense.

ARTICLED CLERKS.

At the Conference of District Societies representatives the President drew attention to the present position in regard to articled clerks and asked that the District Societies would give consideration to the matter. Briefly, the position is that while the number of articles registered each year increases, a recent investigation of the proportion of practising members to articled clerks indicates that there is a considerable number of practising members who do not retain any articled clerks, or, alternatively, the full quota for which the bye-laws provide, namely, two to each Associate and three for each Fellow.

COMMITTEE.

The retiring members of the Committee are: Mr. Joshua Ralph Atkins, Mr. James Henry Lord, J.P., Mr. George A. Marriott, Mr. Halvor Piggott and Mr. Fred Walmsley, J.P.

In accordance with Rule 4 (*f*) the following members of the Committee having failed to attend one-third of the meetings of the Committee retire from the Committee, but are eligible for re-election:—Mr. Norman McKellen and Mr. Joseph Wilfrid Shepherd. Mr. Alfred Nixon and Mr. Thomas Silvey have been prevented from attendance by ill health.

NEWCASTLE-ON-TYNE.

ANNUAL MEETING.

The annual general meeting of this Society was held at Armstrong College, Newcastle-on-Tyne, on November 16th, when Mr. Richard Smith, president of the Society, took the chair.

Mr. Richard Smith proposed the adoption of the report and accounts, and referred to the progress of the Society during the past year. Their membership stood at 224, and he commended to their favourable consideration, proposals for the formation of a Students' Section. He was glad to say that during the year a dinner had been held, when they entertained the Lord Mayor of Newcastle-on-Tyne, the President (Mr. Thomas Keens) and the Secretary (Mr. A A. Garrett) of the Parent Society and representatives of the public and commercial life of the city.

Mr. Richard Smith intimated his desire to resign the presidency of the District Society, which he had held for 21 years. It gave him particular pleasure to propose for that office Mr. T. R. G. Rowland, of West Hartlepool, their Vice-President. The motion, having been seconded, was carried by acclamation.

In acknowledging the compliment, Mr. Rowland paid a warm tribute to their retiring President (Mr. Smith) for his services of outstanding worth, faithfully and ungrudgingly rendered in the positions of Hon. Secretary, Hon. Treasurer and President respectively. Mr. Smith had been a member of the Society since its foundation in 1896.

Proceeding, Mr. Rowland referred to important legislative measures which had been placed on the Statute Book during the year. With regard to company law, a new Company Bill had been submitted to Parliament, although there seemed little likelihood of this becoming law for some considerable time. The recent changes in the law of property and the administration of the Rates and Valuation Act were also well worthy of attention.

Mr. E. Darnell and Mr. W. M. McKenzie were elected Vice-Presidents. Mr. H. J. Thompson and Mr. T. Rodger were elected to the Committee. Mr. A. M. White, Mr. F. Smith and Mr. J. Telfer were re-elected to the Committee, and Mr. T. H. Major was re-elected Hon. Auditor.

PRESENTATION TO MR. AND MRS. RICHARD SMITH.

Following an informal dinner, held in the University Union, at which the new President (Mr. Rowland) presided, a presentation was made to the retiring President, Mr. Richard Smith, who received a silver salver, and Mrs. Smith an ivory mounted mirror and ivory mounted brushes.

In making the presentation on behalf of the subscribers, Mr. Rowland alluded to the high esteem and affection in which Mr. Smith was held. His services to the Society had been extremely valuable. Thirty years constituted a long span in his devotion to honorary work. They were all glad to see Mr. Smith still in harness, and they hoped they would long enjoy his able assistance in the profession to which they were all proud to belong.

Mr. Smith made an appropriate acknowledgment, and gave a brief account of the progress of the Society and of his long connection with its activities.

SHEFFIELD.

ANNUAL MEETING.

The annual meeting of this Society was held at Sheffield on November 23rd. The President (Mr. C. H. Wells) occupied the chair, and was supported by Mr. L. Lewis (Vice-President) and Mr. C. A. Belbin, Mr. F. W. Ogg, Mr. J. Nadin, Mr. E. R. Harrison, Mr. W. Foulston, Mr. J. W. Richardson, Mr. H. Toothill (Hon. Secretary) and others.

The President, in moving the adoption of the report and accounts, congratulated the Society on its successful year. He particularly referred to the grants received from the Parent Society which enabled them to sustain efficiently the work of their District Societies.

Mr. Harrison, in proposing Mr. Percy Toothill as President for the ensuing year, referred to his work as Hon. Secretary of the District Society for 24 years. The motion was supported by Mr. W. Foulston, and carried unanimously.

A special vote of thanks was accorded to the retiring president, Mr. C. H. Wells, for the services he had rendered in the presidential chair during the last three years.

The Vice-Presidents, Mr. H. Foulston and Mr. L. Lewis were re-elected, and the following members were elected to the Committee: Mr. C. H. Wells, Mr. C. A. Belbin, Mr. F. W. Ogg, Mr. D. Craig, Mr. W. Foulston, Mr. E. R. Harrison, Mr. A. B. Griffiths and Mr. H. Toothill.

Mr. J. W. Richardson was elected Hon. Secretary and Treasurer; Mr. H. Gerald Toothill was elected as Librarian, and Mr. F. E. Beech as Honorary Auditor.

Report.

The following are extracts from the annual report:—

The Committee have pleasure in presenting to the members the following report on the work of the Society for the year 1926-27.

MEETINGS.

The following meetings were held during the year. The Committee are pleased to report the continued success of these lectures, and they beg to offer their best thanks to the Lecturers for their services.

1926.		
Nov.	5th.	"Parliamentary Principles and Practices," by Mr. R. Storry Deans, M.P.
Dec.	7th.	"Bankers' Advances against Balance Sheets," by Mr. R. S. Boyt, London.
1927.		
Jan.	11th.	"Accounts as a Method of Control," by Mr. A. Lester Boddington, F.S.S., London.
Feb.	8th.	"New Law of Property Act," by Mr. A. Halkyard, LL.B., London.
Mar.	11th.	"Finance Act," by Mr. R. W. Needham, London.
Mar.	30th.	"Balance Sheets of Public Companies," by Mr. Henry Morgan, F.S.A.A., Vice-President of the Society of Incorporated Accountants and Auditors.

The Committee were particularly pleased to welcome Mr. Henry Morgan, the Vice-President of the Parent Society, to Sheffield, and the small informal dinner which took place at the Grand Hotel after his lecture proved highly successful.

The best thanks of our members and students are also tendered to Mr. L. Lewis, A.S.A.A., for his paper on

"Notes on the Study of Statistics for Examination Purposes," and to Mr. C. A. Belbin, F.S.A.A., for a paper on "The Evolution of Local Government in England."

Arrangements have been made for a debate with the students of the Nottingham and District Society on January 18th, 1928, when the following subject is to be discussed: "That Secret Reserves should be abolished and any Reserves should be clearly shown on the Balance Sheet." Other meetings for the students are also being arranged, particulars of which will be announced later.

Fourteen members were successful in their respective examinations during 1926-27, and the Committee tender their hearty congratulations to such candidates.

The District Society was represented at the Conferences of the representatives of District Societies held in London during the year with regard to the improvement of the organisation of the District Societies, and recommendations have been made to the Council with this object in view.

The District Society was also represented at the dinners of the District Societies at Manchester, Leeds and Newcastle, and the President has also attended the annual functions of the following kindred societies: The Sheffield Society of Architects, the Chartered Institute of Secretaries, the Insurance Institute of Sheffield, the Institute of Chartered Accountants, and the Law Society.

Syllabus of Lectures.

The following are the arrangements for the winter session:—

1927.		
Oct.	5th.	"The Burden of the National Debt," by Professor D. Knoop.
Nov.	2nd.	"The Foreign Exchanges," by Mr. A. C. Booth.
Dec.	6th.	(Particulars later), by Mr. A. Halkyard, LL.B., London.
Dec.	20th.	"Greece, Yesterday and To-day," by Mr. Samuel Wells, F.R.G.S.
1928.		
Feb.	7th.	"The Stock Exchange," by Mr. W. A. M. Morgan.
Mar.	5th.	"The Value of a Balance Sheet," by Sir Mark W. Jenkinson, K.B.E., F.C.A.

The meetings will be held at Norris Deakin Buildings, King Street, Sheffield, commencing at 6.30 p.m.

In addition to the above lectures, arrangements are being made for special meetings of members and students, on similar lines to those of last session, and particulars will be announced in due course.

SOUTH OF ENGLAND.

Syllabus of Lectures, &c.

The following are the arrangements for the winter session:—

1927.		
Nov.	18th.	"Economics: Theories of Interest," by Mr. P. Ford, B.Sc. (Econ.), University College, Southampton.
Dec.	9th.	"Stock Exchange Transactions," by Mr. W. H. Grainger, A.S.A.A., London.
1928.		
Jan.	—	Mock Income Tax Appeal.
Feb.	—	A Legal subject (to be advised later).
Mar.	29th.	"Criticisms of Balance Sheets," by Mr. A. Lester Boddington, F.S.S.
April	—	"New Company Legislation," by Mr. C. A. Sales, LL.B., F.S.A.A.

SWANSEA AND SOUTH-WEST WALES.

The committee of the Society have inaugurated a series of competitions for student members, which take the form of tests in general professional knowledge.

A problem is set at each meeting of students and replies must be submitted before the next succeeding meeting.

The practice of answering these questions should prove of value to students, both in regard to testing their knowledge and experience, and as a means of cultivating the preparation of succinct and accurate statements and reports.

SOUTH WALES AND MONMOUTHSHIRE.

Mr. J. T. Phœnix, solicitor, Cardiff, was the lecturer at a meeting of the Cardiff Students' section held on Thursday evening, November 17th.

The Chairman (Mr. Owen I. Thomas, A.S.A.A.) was supported by Mr. Percy A. Hayes, F.S.A.A., Mr. A. Percy Horton, F.S.A.A., Mr. A. D. Thomas, A.S.A.A., Mr. E. E. Pearce, A.S.A.A., and Mr. J. Alun Evans (Hon. Secretary).

The Lecturer delivered a very able and concise address upon the subject of "Debentures," in which he particularly brought out, for the benefit of students, points specially applicable to the examination syllabus.

Reference was made to the subject of "Equity," which Mr. Phœnix suggested might very profitably be an addition to the examination syllabus. It was pointed out that the subject was a very necessary one if law was to be really understood; at present the range of study for students was, so far as company work was concerned, confined to the Law of Companies and the Law of Contracts.

The exceptionally keen interest taken was evidenced by the numerous questions afterwards submitted, all of which were admirably dealt with.

A very enjoyable and instructive evening was concluded with a hearty vote of thanks to the Lecturer.

A well attended meeting of this Society was held in the Town Hall, Newport, on Wednesday, November 23rd, when Mr. C. T. Stephens, A.S.A.A., delivered a lecture on "Bankruptcy."

The President of the District Society, Mr. J. Pearson Griffiths, F.S.A.A., was in the chair, and he was supported by the Vice-President, Mr. E. Mills, F.S.A.A., Newport, Mr. John Allcock, F.S.A.A., City Treasurer and Controller, Cardiff, Mr. W. J. Pallot, F.S.A.A., Cardiff, Mr. R. C. L. Thomas, F.S.A.A., Newport Mr. P. A. Hayes, F.S.A.A., Cardiff, Mr. O. I. Thomas, A.S.A.A., Cardiff, Mr. L. R. Williams, F.S.A.A., Cardiff, Mr. H. W. Baddeley, A.S.A.A., Newport, Mr. Percy H. Walker, F.S.A.A., Cardiff, Hon. Secretary of the Society, and a representative gathering of student members.

Mr. Stephens dealt with the various acts of bankruptcy and in particular the offences under the Bankruptcy Act. He gave special mention to the recent changes made in the bankruptcy law and the obligation on the debtor to keep books, not only in the case of a second bankruptcy but in a first bankruptcy.

An interesting discussion ensued in which many of the members took part.

Syllabus of Lectures.

(INCLUDING CARDIFF AND NEWPORT STUDENTS' SECTIONS.)

1927.		
Oct.	14th.	Mock Income Tax Appeal Meeting (Mr. D. Davies, B.A., A.S.A.A., H.M. Inspector of Taxes, will act as one of the Commissioners; at Cardiff.
Oct.	28th.	"Examination Hints," by Mr. J. D. R. Jones, F.S.A.A.; at Newport.
Nov.	17th.	"Debentures," by Mr. J. T. Phoenix, Solicitor; at Cardiff.
Nov.	23rd.	"Bankruptcy," by Mr. T. C. Stephens, A.S.A.A.; at Newport.
Dec.	1st.	"Executorship Accounts," by Mr. R. C. L. Thomas, F.S.A.A.; at Cardiff.
Dec.	8th.	"Agency," by Mr. O. Temple Morris, Barrister-at-Law; at Cardiff.
Dec.	16th.	Debate. Subject: "Is the present tendency towards Amalgamations of best interest to the Community?" at Newport.
1928.		
Jan.	12th.	"Points of Procedure in Accountancy and Legal Matters"; at Cardiff.
Jan.	20th.	"Some Practical Points of Income Tax," by Mr. F. J. Notley, A.S.A.A.; at Newport.
Jan.	26th.	"The Deflation of the French Franc in its relation to the South Wales Coal Trade," by Mr. R. T. Evans, M.A., Cardiff University; at Cardiff.

Feb. 9th. "Cost Accounts—How to Apportion Nominal Charges," by Mr. W. A. Stewart Jones, F.R.Econ.S.; at Cardiff.

Feb. 24th. "Finance Acts, 1925 and 1927," by Mr. Raymond Needham, Barrister-at-Law; at Newport.

Mar. 8th. "Verification and Valuation of Assets," by Mr. W. I. Rodda, A.S.A.A.; at Cardiff.

Mar. 21st. Joint Lecture with the Institute of Chartered Secretaries, "Company Law Amendment," by Mr. H. W. Jordan; at Cardiff.

Mar. 30th. "Rights and Duties of Liquidators, Trustees and Receivers," by Mr. C. T. Stephens, A.S.A.A.; at Newport.

April 28th. Annual Dinner; at Cardiff.

WEST OF ENGLAND.

Syllabus of Lectures.

1927.

Nov. 14th. "Evolution of Industry," by Mr. A. E. Pugh, F.S.A.A., F.R.Econ.S., Newport.

Nov. 28th. "Prospectus Law," by Dr. A. W. Peake, Barrister-at-Law, Bristol.

Dec. 12th. "Income Tax with Special Reference to the Finance Acts, 1926 and 1927," by Mr. C. W. Legge, F.S.A.A., London.

1928.

Jan. 9th. "Executorship Law," by Mr. E. Westby-Nunn, B A., LL.B., Metropolitan College, St. Albans.

Jan. 23rd. "Divisible Profits of a Company," by Mr. H. E. Davis, A.S.A.A., M.C., London.

Feb. 6th. "Typical Examination Problems in Accountancy," by Mr. E. Miles Taylor, F.C.A., London.

The lectures will be given at the Royal Hotel, College Green, Bristol, on the dates named at 6 p.m. promptly.

YORKSHIRE.

The third lecture of the session was held at Leeds on November 15th, when Professor Douglas Knoop, M.A., of Sheffield University, addressed a good attendance of members on "The Burden of the National Debt." The chairman for the evening was Mr. E. B. Shaw, F.S.A.A., of Huddersfield. Professor Knoop pointed out that the National Debt differed from most other debts in being a debt with no assets, and chiefly represented borrowed money used for war purposes. Debts were not necessarily a burden upon a business, nor upon a local authority, because both had assets of some sort to show, but a Government which borrowed money externally had nothing tangible to show. The actual amount of the National Debt was not relatively important. It was the annual charge that counted. If the rate came down low enough it would not matter how big the debt was. The best way of reducing the burden was to have an adequate sinking fund. This was the reason for Brazil's recent improved credit. During the evening the President of the Society (Mr. J. W. Carter, F.S.A.A.), presented the certificates to members successful at the May, 1927, examinations. The meeting terminated with a hearty vote of thanks to the Lecturer for his interesting paper.

WALLASEY CORPORATION BILL.

The Bill promoted by the Wallasey Corporation, having for its object, *inter alia*, the extension of borough boundaries, was recently before the Local Legislation Committee of the House of Commons.

Evidence was brought before that Committee by Mr. C. Hewetson Nelson, J.P., a Past-President of the Society of Incorporated Accountants, who was Mayor of Wallasey in 1920/21, and was for seven years Chairman of the Finance Committee of that borough. This evidence was submitted on behalf of the Ratepayers' Incorporation Committee, which obtained, some years ago, the Charter of Incorporation for the borough.

The tenor of Mr. Hewetson Nelson's evidence was in favour of the extension of the borough boundaries, which was supported by substantial facts and close reasoning, based upon broad, humanitarian and hygienic considerations.

Society of Incorporated Accountants and Auditors.

MEMBERSHIP.

The following additions to and promotions in the Membership of the Society have been completed since our last issue:—

ASSOCIATES TO FELLOWS.

ANDERSON, ERNEST ALEXANDER, Scottish Provident Buildings, 7, Donegall Square West, Belfast, Practising Accountant.

BASU, GURUGOBINDA, B.A. (G. Basu & Co.), Salisbury House, 3/1, Bankshall Street, Calcutta, Practising Accountant.

BOWYER, SAMUEL JOHN, A.C.A. (Baxter, Bennett, Bowyer & Co.), Bath House, 57/60, Holborn Viaduct, London, E.C.1, Practising Accountant.

COOPE, FREDERICK WILLIAM (T. Greenhalgh & Co.), Empress Chambers, 97, Church Street, Blackpool, Practising Accountant.

FELLOWS, JAMES MORRIS, F.C.A. (Fellows, Crabb & Co.), 30, Museum Street, London, W.C.1, Practising Accountant.

GOSKAR, ALFRED EDWARD (Ashmole, Edwards & Goskar), 61, Wind Street, Swansea, Practising Accountant.

GRAVES, LEONARD HERBERT (Morgan Bros. & Co.), Capel House, 54, New Broad Street, London, E.C.2., Practising Accountant.

HODGSON, THOMAS (Thomas Banville & Co.), 4, Piccadilly, Manchester, Practising Accountant.

LOWE, JOHN TYLDESLEY, 12, Kent Street, Kendal, Practising Accountant.

MARSDEN, WALTER HINDLE (Porter, Matthews & Marsden), 43, Preston New Road, Blackburn, Practising Accountant.

MILLS, SAMUEL, M.B.E., Accountant to the Radcliffe Urban District Council, Council Offices, Radcliffe, Manchester.

MOLYNEUX, ERNEST LESLIE (J. Wallace, Williams & Co.), 5, St. Andrews Crescent, Cardiff, Practising Accountant.

MONSON, HENRY STEPHEN, Borough Accountant, Wandsworth Borough Council, 79, East Hill, Wandsworth, London, S.W.18.

MUKHERJI, SATYENDRANATH, Stephen House, 5, Dalhousie Square East, Calcutta, Practising Accountant.

PALMER, ALFRED JAMES, West Street, Fareham, Hants., Practising Accountant.

PAUL, FREDERICK (Frederick Paul & Co.), Bath House, 57/60, Holborn Viaduct, London, E.C.1, Practising Accountant.

STEPHENS, CHRISTOPHER THOMAS (William Clark & Stephens), Westgate Chambers, Newport, Mon., Practising Accountant.

WALDRON, ERNEST JOHN (Woolley & Waldron), 6, Portland Street, Southampton, Practising Accountant.

WALTON, NORMAN HUTCHINSON (Laverick, Walton & Co.), Midland Bank Chambers, Sunderland, Practising Accountant.

WILLIAMS, GEORGE RICHARD (Geo. R. Williams & Humphries), 26, Windsor Place, Cardiff, Practising Accountant.

ASSOCIATES.

BOARD, WILLIAM ALFRED, Clerk to H. M. B. Ker, The Mart, Bridgwater.

BUBB, BERNARD GEORGE, B.Com., Clerk to Cassleton Elliott & Co., Jos, Nigeria.

EDWARDS, HAYDN, Clerk to Percy H. Walker & Co., 4, Park Place, Cardiff.

GILL, FRED, A.C.A. (Gill & Thurlow), Bank of Liverpool Chambers, Bradford, Practising Accountant.

HANKINSON, ARTHUR, City Treasurer's Department, Town Hall, Manchester.

JELLEY, DOUGLAS HARRY (Kilby & Fox), Drury Chambers, Market Square, Northampton, Practising Accountant.

KANER, HYMAN, B.Sc., Ministry of Labour, Finance Department, Montagu House, Whitehall, London, S.W.1.

LOWE, ARTHUR EDWARDSON, Clerk to Alfred Griffin & Son, Bank Chambers, 8, Church Street, St. Helens.

MACAW, WILLIAM MORGAN, Clerk to McCann, Beatton & Co., 83, Queen Street, London, E.C.4.

MACLEOD, GEORGE ANDREW, Clerk to J. B. Hughes & Lloyd, 8, Cook Street, Liverpool.

MAYHEW, HARRY WILLIAM, Clerk to Painter, Mayne & Walker, 103, Cannon Street, London, E.C.4.

MCROBERT, MATTHEW JAMES, Clerk to C. E. Dolby & Son, 51, North John Street, Liverpool.

OGLE, HOMFRAY (Newman Ogle, Ashworth & Bevan), F.C.A., Spencer House, South Place, London, E.C.2, Practising Accountant.

ROBERTSON, GILBERT, A.C.A. (Holliday, Robertson & Co.), Empire House, St. Martin's-le-Grand, London, E.C.1, Practising Accountant.

SAUNDERS, REGINALD WILLIAM NEWMAN, Clerk to Holman, Foxcroft & Jackson, 11, Queen Victoria St., London, E.C.4.

SHIVDASANI, CHATURBHUJ TIRATHDAS, B.A., Clerk to John McLellan & Sons, Finsbury Pavement House, 120, Moorgate, London, E.C.2.

SMITH, GEORGE, Clerk to Hodgson, Harris & Co., Parliament Street, Hull.

STACEY, WILLIAM HARRY, Clerk to Stephenson, Smart & Co., 44, King Street, Kings Lynn.

Changes and Removals.

Messrs. Bedell & Blair, Incorporated Accountants, have removed to St. James's House, 44, Brazennose Street, Manchester.

Messrs. Kilby & Fox, Incorporated Accountants, Drury Chambers, Market Square, Northampton, have taken into partnership Mr. D. H. Jelley, Incorporated Accountant. There will be no change in the name of the firm.

Messrs. Newman Ogle, Ashworth & Co., Chartered Accountants, announce that they have taken into partnership Mr. W. H. Bevan, Chartered Accountant, and will continue the practice at Spencer House, South Place, London, E.C., under the style of Newman Ogle, Ashworth & Bevan.

Mr. Alfred E. Pugh, Incorporated Accountant, has been appointed Secretary of the Newport, Mon., Chamber of Commerce. He will continue to practise at Carlton Chambers, Newport, Mon.

Mr. F. F. Sharles, Incorporated Accountant, 52, Queen Victoria Street, London, E.C., and 126, Rue de Provence, Paris, has arranged to carry on practice in Belgium at 38, Rue Ernest Allard, Brussels.

Messrs. Shaw, de Freece & Co., Incorporated Accountants, have removed to 2, Gerrard Place, Shaftesbury Avenue, London, W.

Messrs. F. W. Stephens & Co., Incorporated Accountants, have removed to Liverpool House, 15/17, Eldon Street, London, E.C.

Messrs. Whittaker & Bailey, Incorporated Accountants, 3, Portland Street, Southampton, announce that Mr. W. Newman Bailey, F.S.A.A., has re ired from the firm. The practice will be continued by Mr. E. W. C. Whittaker, F.S.A.A., in partnership with Mr. H. C. Bound, Chartered Accountant, Mr. Montague Bound, Chartered Accountant, and Mr. Leonard J. Foot, under the style of Whittaker, Bailey & Co.

Messrs. Wilson, Rattray & Co., have removed to Australasia Building, 85, Pitt Street, Sydney.

The Transfer of Contractual Rights.

A LECTURE delivered before the Incorporated Accountants' Students' Society of London, by

MR. C. A. SALES, LL.B.,
INCORPORATED ACCOUNTANT.

The chair was occupied by Mr. JAMES C. FAY, the Secretary of the Society.

Mr. SALES said: Only a very slight acquaintance with the commercial law is necessary to enable us to appreciate that a right attaches in some form or other to every kind of contract, and to every right there is a correlative duty or obligation. In most instances, each party to the contract acquires a right, but when one speaks of the right attaching to a contract the main purpose of the contract must be considered in determining exactly where the right lies. For example, if A agrees to sell a horse for £50 A has a right to receive the £50, but the real object of the contract is the sale of the horse, so that we regard B's right to receive the horse as being of more importance than A's right to be paid the price. Possibly A would not agree, but we must of course take an impartial view.

It seems reasonable to us that anyone possessing a right under a contract should be in a position to transfer it to another if he desires to do so, but, although the law to-day permits this to be done, such a course was not always possible: in fact, although commercial law from its very nature is centuries old, it is only about 50 years ago since there was any definite statutory pronouncement in favour of such transfers. This apparent tardiness is not however altogether surprising when we remember that we are dealing with legal relationships based on custom and case decision rather than upon statute law; but even so, legislation was long overdue in this instance seeing that equity had many years previously been compelled to apply its doctrines to circumstances which apparently urgently needed reform.

It will have been noticed that the transfer of duties finds no place in the title of this lecture, for the very good reason that, broadly speaking, a contracting party cannot evade the fulfilment of his obligations, and, apart from one or two exceptions, duties cannot be transferred. Very little reflection is needed to convince us that no other position is possible, especially when the personal element intervenes. Custom permits transfer of obligations within well defined limits—as, for example, where a provincial solicitor acts in a High Court case through his London agents—but this is really a question rather of delegation than of actual transfer, since the contract of agency between the solicitor and his client still remains.

METHODS OF TRANSFER OF RIGHTS.

Let us now consider by what means rights may be transferred. Such means may be divided into three classifications:—

(*a*) Assignments.
(*b*) Operation of negotiability.
(*c*) Operation at law.

Assignments.—An assignment consists of a definite transfer of rights under the contract by means of a separate contract evidenced in such manner as law or equity may prescribe. Originally the common law would not permit assignments to be made at all, the view being that if A and B entered into a contract, those parties and no others should perform it, the obligations and rights created under the contract being regarded as of a strictly personal nature. If circumstances

should necessitate some tranference, the original contract was terminated by consent and a new contract (a contract of novation) was entered into between say A and C, C acquiring thereby the rights formerly possessed by B; but such a position could not be created without B's consent.

Our experience of the law teaches us, however, that, whatever its restrictions, some means will be found by ingenious persons of evading them. In this instance the *modus operandi* consisted in the grant of a power of attorney to the intended transferee. This expedient enabled the assignee, if one can use this term where there had been no actual assignment, to sue the debtor, but only in the name of the creditor, as technically the latter person continued in the enjoyment of the rights conferred by the contract, the assignee only being in law an agent. If the obligation were discharged the device was successful, but difficulties were always possible since the continued validity of the power of attorney depended upon the personal status of the creditor. For instance, at that time the death or lunacy of the latter operated to revoke the power, and consequently was a constant menace to the position of the assignee. In addition, any defences which were good against the assignor continued, from the very nature of the expedient, to be good against the assignee.

In the course of time, in this, as in other cases of inelasticity in the doctrines of the common law, equity afforded the necessary relief and permitted the enforcement of a valid assignment. The enforcement apparently operated in the Courts of Common Law, since equity gave the assignee the right to call upon the assignor to permit the use of his name in bringing the action. If the action were brought in the Court of Chancery itself, the assignee could join the assignor with him as co-appellant. From the source of its permission, such an assignment became known as an "equitable" assignment.

The following factors must be carefully considered in relation to such assignments, particularly in effecting a comparison with legal assignments, which evolved later, and of negotiable instruments:—

(1) Consideration was usually insisted upon. An old equitable maxim was "He who seeks equity must do equity," and a party who had acquired a right by gift was not apparently regarded as entitled to what amounted to the privilege of enforcement of such right, if it were not otherwise enforceable at law.

(2) No rules were imposed as to the method by which the assignment had been effected. Writing was not essential, and any form of transfer, verbal or written, was effective.

(3) Notice of the assignment must have been given to the party to be charged; not that such notice was insisted upon by the Court of Chancery, but by reason of the principle that should the assignor effect a second assignment of the same chose in action, the debtor would recognise the claim of the assignee who first gave him notice of the assignment. Delay in giving immediate intimation to the debtor might therefore deprive the assignee of his rights, the second assignee upon giving notice gaining priority—provided, of course, that he was unaware of the first assignment, and that other requisites, *e.g.*, consideration, were present.

(4) The assignee took, subject to equities—that is, he could secure no better title than the assignor had to bestow—and this principle operated in respect of defences against the assignor up to the time notice to the debtor was given.

An equitable assignment continued to be the only permissible method of transfer of rights until 1873, when, by the Judicature Act of that year, all the Courts, whether of law or equity, were merged into one High Court of Justice (with its several Divisions as a matter of departmental convenience). Each Division of the High Court was invested with the power to administer the law, supplementing it where necessary by the application of equitable rules, or affording an equitable remedy where no law existed dealing with the dispute at issue.

Opportunity was also taken when the above mentioned Act was passed, to incorporate provisions permitting assignments in law, which consequently became known as legal assignments. It must not be assumed that such assignments were in conflict with assignments allowed in equity: it was rather a case of evolution or development of procedure than of competition; and at the present time, where the requirements of the Judicature Act, which are indicated below, are absent, the assignment can still be enforced in equity if the requisite conditions in conformity with equitable doctrines are existent.

For an assignment to be valid under Statute,

(1) The assignment must be absolute, and not by way of charge only;

(2) It must be in writing under the hand of the assignor;

(3) Express notice in writing must be given to the debtor.

The assignee may sue in his own name but, as in equity, the assignor cannot confer a better title to the assignee than he himself possesses, so that any defences on the part of the debtor which would have been good against the former will still bind the latter.

It will be observed that the Act makes no mention of consideration, which was one of the conditions of an assignment in equity, and it has been held that absence of consideration affords no bar to the enforcement of a legal assignment (In *re Westerton; Public Trustee* v. *Gray* (1919), 88 L.J., Ch. 392). This decision was apparently based upon the improvement in procedure effected by sect. 25 of the Judicature Act, whereby the assignee could sue in his own name, and was not under the possible necessity of compelling an unwilling assignor to lend his name to the action, by first proceeding in equity to secure such consent and then suing in law in the name of the assignor; and the Judge did not see anything startling in the further conclusion that the assignee is also relieved from the terms which equity imposed as a condition of assisting him in obtaining the legal right, if at law the question of consideration was regarded as wholly immaterial.

I cannot do better than quote from the judgment of Sargant (J.), who said:—

". . . . . and I think it must have been so regarded for this reason, that at law the action was brought in the name of the assignor, so that there was no question at all of any transaction between the assignor and assignee under which the question of consideration arises. If that be so, and if, since the Judicature Act, 1873, the assignee can come directly in his own name and sue as effectually as he could have done in the name of the assignor, it appears that there is no reason for continuing against the assignee those terms which were imposed by equity as a condition of granting relief. The position of the assignee has in this respect been improved once and for all by the subsection of the Judicature Act in question, which has conferred on him a legal right to sue; and in my judgment I ought not to consider that legal right as being in any way dependent upon the question of whether the assignment was made for valuable consideration or not, provided it complies with the express conditions of that subsection."

It is perhaps presumptious on my part to dissent from the considered opinion of so learned an authority, but I cannot help thinking that there are other factors which might contribute

in some measure to the silence of the Act upon this most important matter.

I take the view that once assignments are raised to a legal status, all the attributes of a contract, of which consideration in most cases is one, should be assumed. The Act does not say, for example, that an assignee must not be a minor, but obviously if a minor could not have been a party to the original contract, his disability would attach to his position as an assignee. Since the assignee can sue in his own name, he virtually takes the place of the original creditor and must not be subject to contractual disabilities. So far as consideration is concerned, however, I agree that it might be argued that so long as the original contract is enforceable the assignee can sue upon it.

It is important to observe that the assignment must be absolute, and this has given rise to the question as to whether part only of a debt can be effectively assigned. The general opinion at one time was that such an assignment was not valid in law, although it might be enforceable in equity, since it was incumbent upon the assignee to join the assignor with him in any action for recovery. The decisions were, however, conflicting. In *re Steel Wing Company* (1921) 1 Ch., 349) it was held that the part assignment did not conform to the provisions of sect. 25 (6) of the Judicature Act, but gave rights in equity whereby the assignee was able to present a petition for winding up the company compulsorily; but in *Skipper* v. *Holloway* (1910) 1 K.B., 630) the decision was to the contrary. The legal position has again received judicial consideration in the recent case of the *Bank of Liverpool and Martins, Limited*, v. *Holland* (162 L.T.J., 387) wherein it was held that a part assignment constituted a valid legal assignment in view of the conditions of the memorandum of agreement entered into, the bank being constituted trustees for the assignor of any amount in excess of the part of the debt assigned (£150) recovered by them from the debtor. It must be noted that in the agreement, the whole of the debt due to the assignor was assigned, with the proviso that the bank should only be entitled to retain the amount due to them, not exceeding £150, so that it would appear that the possibility of a legal assignment of part of the debt only still remains somewhat open to doubt.

The fact that notice is to be given to the debtor does not imply that the latter's consent must be obtained. The assignment is one of right, and if the debtor refuses to recognise it and pays the debt to the assignor, his liability to the assignee is not discharged (*Swan* v. *Maritime Insurance Company* (1907) 1 K.B., 116).

Sect. 25 of the Judicature Act has now been repealed and re-enacted by sect. 136 of the Law of Property Act, 1925.

Provision has been made in various statutes for the regulation of assignments of a specialised character, of which the following are illustrations:—

(1) Policies of life assurance are assignable provided that they are in the form specified in the Act. Notice must be given to the assurance company, and the assignee can then sue in his own name. The assignee takes subject to equities (Policies of Insurance Act, 1867, sects. 1-3).

(2) Policies of marine insurance can be assigned, but there is no stipulation as to notice (Marine Insurance Act, 1906, sect. 50).

(3) Both the Companies Clauses Act, 1845, and the Companies (Consolidation) Act, 1908, make provision for the transfer of shares in companies to which such Acts respectively apply. In the former case transfer by deed is necessary, but under the latter Act writing alone is necessary, although the latter may be regulated by the company's Articles. As the transfers must be lodged with the company for registration and issue of the new share certificates, notice of the assignment is thereby effected.

NEGOTIABILITY.

Let us now consider the second method of transfer of rights under our classification, viz, negotiability.

The principle of negotiability differs fundamentally from that of assignment, both in historical development and in resultant characteristics, the latter being largely the outcome of the former.

To transfer rights by negotiation the instrument itself is handed over, with or without endorsement, but accompanied by no extraneous document by which the transfer is evidenced, mere delivery being sufficient. The transferee may obtain a good title free from equities—that is, his title is not impeachable by reason of defects attaching to that of his transferor. Notice of transfer need not be given to the party primarily liable on the instrument, and consideration need not be stated although it is presumed to exist.

These special features attach only to certain types of instruments, which are known commercially as negotiable instruments, and it has been a matter of some difficulty to determine exactly what documents can be so regarded. Bills of exchange have never been open to doubt, as the use of such instruments constituted the foundation and origin of the principles of negotiability. In other cases, however, tests must be applied. Before considering, therefore, in detail, what instruments can or cannot be regarded as negotiable, it would be as well to review the matter in its historical relation.

The principle of negotiability owes its recognition to the law merchant, *i.e.*, that collection of unwritten rules which were recognised and acted upon by merchants and the special Courts which controlled their actions. Such law must be distinguished from the *lex non scripta* or unwritten law constituting the common law of the land.

Such rules were the result of custom and commercial expediency, and formed the *lex mercatoria* which subsequently became absorbed into the common law, of which it now forms a very important part.

The restrictions upon the freedom of transfer of rights imposed by the common law did not, therefore, affect those instruments peculiar to usages of the mercantile community, and, logically, it was not necessary to invoke the assistance of the Court of Chancery to enforce a desired transfer; nor was the provision of sect. 25 of the Judicature Act necessary to enable the transferee to sue in his own name.

Thus, consideration need not be stated, or even exist, as was the case in equitable assignments; notice to the party liable need not be given either verbally or in writing, as required in equity and under statute, and the transfer need not be absolute, as required by the Judicature Act.

Had negotiable instruments been surrounded by the essentials imposed upon other transfers by equity and statute, their usefulness as a means of settling pecuniary obligations would have been seriously impaired, if not destroyed altogether, and it is difficult to realise how trade and commerce could be conducted to-day in the absence of instruments invested with the special qualities of negotiability.

To come back, then, to our previous question: what instruments other than bills of exchange can be regarded as negotiable? I have seen it stated that an instrument can become negotiable either by statute or by usage or custom, but strictly the former is an inaccurate conception, since negotiability is a child of the law merchant alone. Certain instruments have been given certain privileges and qualities by authority of Parliament—for example, currency and bank notes—but this is really an application of the doctrine to what are, in a sense, forms of promissory notes.

It must be remembered that merely because an instrument may constitute legal tender, or may be transferable by delivery only, it is not thereby negotiable and automatically invested with the other and probably more important qualities of a negotiable instrument.

Bills of lading are impressed with the outward features of negotiability, since they are transferable by delivery and the assignee can sue in his own name. Moreover, in some circumstances, the holder of a bill of lading may give a good title even though his own title is impeachable (*Cahn* v. *Pockett's Bristol Steam Packet Company* (1899), 1 Q.B., 643 C.A.).

The delivery of the bill of lading is sanctioned by mercantile custom, but such delivery at one time conferred only restricted rights on the assignee, who was only able to sue on the instrument in his own name by virtue of the provisions of the Bills of Lading Act, 1855. Further, the assignee does not normally secure a better title than his assignor, and the decision in the case above quoted rests entirely upon the interpretation of sect. 25 (2) of the Sale of Goods Act, 1893, which obviously can only be applied in the peculiar circumstances.

Debentures to bearer have been held to be negotiable by mercantile custom (*Bechuanaland Exploration Company* v. *London Trading Bank* (1898) 12 Q.B., 68), and judicial notice will now be taken without express evidence. Share warrants and foreign scrip appear capable of being similarly so regarded (see *Goodwin* v. *Roberts* (1876) 1 App. Cas., 476), and other instruments, whilst not now strictly negotiable, are regarded so commercially and may in course of time be placed upon the same footing.

Whilst the commercial transferability of a bill of exchange cannot be impaired, the holder may be debarred from the exercise of the full rights attaching to a negotiable instrument in four ways:—

(1) Where the bill is transferred after maturity.

(2) Where an endorsement has been forged.

(3) Where the bill has been endorsed restrictively, or is made payable to a certain payee and to him only.

(4) In the case of cheques, by the insertion of the words "not negotiable" in the crossing.

With regard to (1) where the bill is transferred after maturity, the holder is not a holder in due course, and his claim against the acceptor is subject to whatever defences could be advanced by the latter existent at the due date. This was illustrated in the case of *Holmes* v. *Kidd*, the facts of which were as follows:—A obtained a loan from B for £300, accepting a bill of exchange for this amount, and also deposited goods with B as additional security. The bill was not met, and B sold the goods for £272. B then, acting dishonestly, transferred the bill to C. who subsequently sued A upon it. It was held that C could only recover £28, the difference actually due from A, since B took the bill on the condition that it was defeasible if the goods were sold, and that as C acquired the bill after dishonour, he was bound by the equity arising out of the original transaction to the extent of the £272.

The effect of a forged endorsement rests upon sect. 24 of the Bills of Exchange Act, and as no one can secure a good title through or by such an endorsement, the negotiable quality of the instrument is terminated, since any holder taking the bill subsequent to the forgery cannot take it free from equities.

No further comment is, I think, necessary with regard to the third above-mentioned exception, but it should be noted that any transferor can give a restrictive endorsement.

Since the words "not negotiable" can only be added to the crossing, this provision affects cheques only and not other bills of exchange. The insertion of these words terminates the life of the cheque as a negotiable instrument, and whilst the cheque may still be transferred the holder can acquire no better title than his predecessor.

OPERATION AT LAW.

The third method by which a transfer of rights may be made is by operation at law, the transfer resulting from a change in the status of the original party. For example, when a man dies the whole of his estate, including all contractual rights, vests automatically upon death in his personal representative. Even where a will exists it does not operate to effect the conveyance, but merely to indicate the person in whom the rights shall vest. The act of vesting is provided for by statute (now the Administration of Estates Act, 1925). This distinction should be clearly appreciated when it is considered that, prior to the passing of the Land Transfer Act, 1875, the title to realty passed direct to the devisee or heir-at-law as the case may be. Where no executor is named the property of the deceased vests in the President of the Probate Division of the High Court until an administrator is appointed, since it is a well set led principle that property cannot remain for any period of time without an owner. Upon this appointment the title of the administrator relates back to the date of death.

When an adjudication order is made against a person, the property vests by virtue of the provisions of the Bankruptcy Act in the Trustee. There is no extraneous evidence of transfer, as in the case of the execution of a deed of assignment.

Formerly, upon her marriage, the property of the wife passed *ipso facto* to the husband, but, as one of the phases of female emancipation, the husband now secures no *automatic* control. If it is desired that a certain portion of the property shall pass to the husband, the transfer must be effected by a marriage settlement which is governed by the ordinary rules of contract.

Care must be taken not to confuse the above transmissions with assignments where are *permitted* or specifically provided for by statute, *e.g.*, policies of insurance.

Nemo dat quod non habet.

It is an accepted legal principle that no one can confer a better title than he himself possesses, but as in the case of most rules there are numerous exceptions, and having outlined the main features and distinctions appertaining to the transfer of rights generally, I propose to terminate my address by indicating in what directions exceptions to the above maxim will apply.

The ability to give a good title to a transferee permeates the whole spirit of negotiable instruments and, as I have already discussed this aspect, there is no need to deal with it further, although such instruments afford the best illustration of the exception which is possible.

Where goods pass under the control of persons, such as landlords upon distress for rent, sheriffs upon execution, trustees in bankruptcy, pawnbrokers, innkeepers, &c., who are able, in certain circumstances, to dispose of the goods of another under common law or statutory powers of sale, they can confer a good title even though the title of the former owner were defective. In most cases, of course, there must be no knowledge of want of title, *e.g.*, a trustee in bankruptcy cannot knowingly dispose of goods obtained by the bankrupt on hire purchase.

A factor is, by virtue of the Factors Act, 1889, able to deal with the goods of his principal almost as if he (the factor) were the true owner. That is, he can sell or pledge them in his own name and give a good title.

The Sale of Goods Act, 1893, also contains provisions to a similar end, for if a person after selling goods (and therefore

ceasing to be the owner thereof) continues in possession of the goods or documents of title relating thereto, the delivery or transfer of the goods or documents of title under any sale, pledge or disposition to a *bonâ fide* purchaser or pledger shall confer a good title.

In this connection I should like again to refer to the facts of the case of *Cahn v. Pockett's Bristol Steam Packet Company* which I have already outlined, and which enabled a person in possession of bills of lading, which, according to sect. 19 of the Sale of Goods Act, he should have returned to the owner, to pass such bills with a good title to a person to whom he had improperly assigned them. This is a case where the provisions of sect. 25 were held to over-ride the conflicting provisions of sect. 19.

Then, again, a purchase of goods in market overt is only impeachable by the true owner where it can be proved that the goods have been stolen, and that the thief has been prosecuted and convicted.

In bankruptcy we have the doctrine of protected transactions solely with the object to preventing *bonâ fide* purchasers and others doing business with the debtor, from being prejudiced. Such transactions in the ordinary way of business, and for valuable consideration, must be completed before the receiving order and without notice of an available act of bankruptcy. It is quite true that at the time these transactions occur the debtor himself is a party, and probably they do not fall strictly within the scope of the subject under discussion, but the title of the trustee relates back to the commencement of the bankruptcy, from which date he is ultimately the *de jure* owner of the debtor's property.

A bankrupt is also able, in certain circumstances, to sell property acquired by him after adjudication and give a good title notwithstanding the fact that the ownership of the trustee continues until the bankrupt's discharge. Such power was by the Bankruptcy Act, 1914, extended even to realty, and following the decision in *Cohen v. Mitchell* (1890, 25 Q.B.D., 262) the position of the purchaser is not affected by his knowledge of the bankruptcy. It has always been a matter of some surprise to me that the Act of 1914 did not contain some provision making knowledge by the purchaser of the bankruptcy proceedings an effectual bar to the retention of the property, since the original provision was obviously designed for the protection of a *bonâ fide* purchaser, but no amendment was made except in the direction of extending the bankrupt's power of alienation to realty.

My final example is afforded by the changes in the position of mortgagees effected by the Law of Property Act, 1925. Previously to January 1st, 1926, as you are doubtless aware, the full legal title was conveyed to the mortgagee subject only to the mortgagor's right of redemption, but this has now been modified so that the mortgagee of freeholds only acquires an interest for a long term of years (3,000 years) which is virtually equivalent to perpetuity without being so in law, the legal estate remaining in the mortgagor. When default is made by the mortgagor, and the power of sale crystallises, the mortgagee is able to dispose of the entire fee simple (subject only to the rights of prior mortgagees), despite his own restricted interest (Law of Property Act, 1925, sect. 88). Naturally he must account to the mortgagor for any surplus, but this obligation is irrelevant to the point at issue, namely, his ability to convey a greater interest than he himself possesses.

I do not claim that the above illustrations exhaust the instances to which the maxim applies, but it will be realised that the exceptions are so important as to merit special consideration.

Discussion.

Mr. C. E. WAKELING, Incorporated Accountant: The Lecturer referred to the question of assigning a policy of marine insurance, and I think he said that the assignor took the title of the assignee. Would he please explain whether that affects a P.P.I. policy, under which it was possible for a man to insure a boat which he knew to be unseaworthy and, immediately on its being put to sea and foundering with all hands, claiming his insurance money without having any interest in the boat at all. This process, of course, now being illegal. With regard to the Married Women's Property Act, Mr. Sales told us that once upon a time, when a woman married, the whole of her property became vested in her husband, but the Married Women's Property Act put a stop to that. Am I correct in thinking that it was in the first instance the Canon law that prevailed, because it was provided for in the marriage ceremony, and that this was subsequently altered by the law of the land?

Mr. SALES: I do not think a P.P.I. policy can be assigned at all. A policy which is in itself illegal would not give the assignee any legal right to sue. It is quite immaterial what is contained in the bridegroom's promise, which is made to a certain extent under duress—(laughter)—or, if not, at any rate under undue influence. A marriage in a church would have no value unless there was registration to effect the civil portion of the ceremony. In olden times the canon law did constitute perhaps part of the recognised law of the land, but not now.

Mr. J. CHALK: It is the custom among certain classes of wholesalers to allow extended credit to small traders, although there is no legal obligation on them to do so. Should the debts due to the wholesalers be bought up by a trust, with the express object of buying out the small traders, can the latter claim as a right the extended credit which has formerly been given them?

Mr. SALES: I do not think the trader could claim to have the extended period of credit in those circumstances. He might plead for it, possibly, if it were the general custom of the trade, but normally the mere fact that a particular house gives a certain term of credit habitually does not entitle him to rely upon it in a case of assignment. When the debt is created it becomes due at once, and it is only a matter of grace on the part of the particular creditor if he allows the matter to go on for a fairly lengthened period.

Mr. W. ADDISON: The Lecturer mentioned the case of *Cohen* v. *Mitchell*, where a purchaser acquired property from a bankrupt. How would the following position be dealt with? If the bankrupt did not disclose realty which he possessed, and a purchaser acquired it, would the trustee be able to claim it from the purchaser?

Mr. SALES: The provision with regard to realty is a statutory one. I said that the 1914 Act extended the bankrupt's opportunity or power to alienate property acquired after adjudication to realty. Prior to 1914, under the old Acts, it only related to personalty. The case of *Cohen* v. *Mitchell* rested entirely on the knowledge of the state of bankruptcy. It was entirely wrong in equity. The bankrupt would be subject, under the general provisions of sect. 154, to two years hard labour. But that does not affect the alienation. The purchaser would get a good title and I am afraid the trustee could not oppose it. It is one of the inequitable portions of bankruptcy law. It amounts to this, that on an adjudication, when the property is vested in the trustee, the bankrupt is able to dispose of property which is not his, whereas, prior to adjudication, when the property is his—for he has not yet been divested of his title—he is not able to dispose of it. You see it is very illogical. Prior to adjudication the only opportunity a purchaser would have of retaining property would be where such transaction constituted a protected transaction, and one of the essentials of a protected transaction is that it must be completed before the receiving order. So we get protected transactions before the receiving order and protected transactions in a sense after adjudication, but between the receiving order and the adjudication the debtor is not able to dispose of his property although at that time he is the legal owner of it.

Mr. S. E. STRAKER: I have recently come across a case where goods are invoiced on the stipulation that the property

in the goods should not pass until paid for. Does a notice to that effect really affect the rights of the parties?

Mr. SALES: As a rule, upon the sale of goods, the property passes when the contract is entered into, and if there is no stipulation with regard to payment, the payment is due at once. The passing of the property and the payment are concurrent conditions, but in the case of goods marked "On appro." the property does not pass until the receiver—the potential purchaser—has intimated in some way that he is going to keep the goods. The legal position is similar to that of goods held on sale or return. Where goods have actually been invoiced and it is stated that the property will not pass until payment—that is a condition which, I think, the seller is entitled to make, although the fact that he has sent in a claim for the money would seem to indicate that he recognises the property to have passed already. That is a point which would form a very useful subject for a case decision in the Courts. Possibly the point has arisen to try and circumvent the order and disposition clause in bankruptcy, but it would not in my opinion do that if the goods came within that clause. The only point I am in doubt about really is the second point. The potential buyer must do some act which recognises the acceptance of the goods.

Mr. STRAKER: The notice having been put on the invoice, if the buyer has disposed of the goods and not paid for them, could the seller follow those goods?

Mr. SALES: I am inclined to think not, but it all depends on whether the property had actually passed or not. If a purchaser buys from a shop, for instance, he is entitled to assume that the goods in the shop are there for sale, and that the shopkeeper has a right to sell them, and I do not think the seller would be in a position to follow the goods. His course would be to claim for the amount due, but, as I say, it is rather an open question as to whether the property has actually passed.

On the motion of Mr. WAKELING, seconded by Mr. MENZIES, a hearty vote of thanks was accorded to the Lecturer.

Reviews.

Accountants' and Auditors' Diary, 1928. *London: T. Whittingham & Co., Limited, 10-12, Little Trinity Lane, and 35, Bucklersbury, E.C.4. (Price 6s. to 12s. 6d. net, according to size and binding.)*

This diary is specially designed for the use of accountants and is well adapted for its purpose. Provision is made for details of work done day by day, with a time summary at the end. The summary is specially ruled to enable the time for the whole year, or any shorter period, to be summarised under the client's name, additional columns being provided for working out the total time and extending the charges. In the cloth bound editions the summary is enlarged and divided into alphabetical sections for convenience of reference. The editorial matter is specially selected so as to be of practical use to accountants in the carrying out of their duties from day to day, and comprises the audit provisions relating to joint stock companies and companies incorporated under special Acts of Parliament. Special attention has been given to the provisions relating to income tax and super tax, full and up-to-date particulars being supplied in a form readily accessible and without unnecessary detail. Full information is likewise supplied with regard to deeds of arrangement, stamp duties, national insurance, &c. The diary is published in a number of different sizes and bindings suitable for the varying requirements of principals and clerks.

The Principles and Arithmetic of Foreign Exchange. *(Fourth Edition.) By S. Evelyn Thomas, B.Com. (London). London: Macdonald & Evans, 8, John Street, Bedford Row, W.C.1. (380 pp. Price 7s. 6d. net.)*

This book deals in a very comprehensive way with foreign exchange in all its aspects. It is intended primarily for the use of students taking the examinations of the Institute of Bankers, but is none the less useful to all who are concerned with foreign exchange matters. In order that the book may be of service to beginners, the author has endeavoured in simple language to convey a clear understanding of the basic principles of exchange operations. Amongst the matters touched upon are the organisation and structure of the London Foreign Exchange Market, the Chain Rule, Foreign Exchange Markets, Maxims for Dealing in Bills, Foreign Exchange Lists and Quotations, Silver Currencies and Exchanges, and Transations in Forward Exchange. The Appendix contains a selection of questions set by the Institute of Bankers, with solutions, and altogether the work deals very thoroughly with the subject.

One Hundred Questions and Answers in Auditing. *By E. Miles Taylor, F.C.A., and H. A. R. J. Wilson, A.C.A. London: Macdonald & Evans, 8, John Street, Bedford Row, W.C.1. (178 pp. Price 7s. 6d. net.)*

The questions which have been set and answered in this book are regarded by the authors as some of the most typical of those appearing from time to time in the examination papers of the bodies of accountants. They are classified under main headings, such as Depreciation and Reserves, Divisible Profits and Dividends, Valuation of Assets, Vouching and Verification, &c., and the result is to afford a very useful guide to students on some of the difficult points which arise. In cases where recognised authorities hold different views, or where alternative answers may be given, an explanation is supplied in somewhat greater detail. The selection of questions has been made with good judgment and the book is consequently worthy of careful study.

The Companies Diary and Agenda Book, 1928. *London: Jordan & Sons, Limited, 116/118, Chancery Lane, W.C.2. (Price 4s. net.)*

The chief value of this diary is the editorial matter which summarises the points of the Companies Acts that are likely to concern secretaries and directors of public companies in the carrying out of their duties day by day. The information is well selected and arranged under suitable headings for convenient reference. There is also supplied a table of Stamp Duties and Fees payable on incorporation, as well as some notes on Colonial and Foreign Company Law and Practice, together with a specimen of a company's annual return showing how it should be filled up.

A Statistical Atlas of the World. *By James Stephenson, M.A., M.Com., D.Sc. London: Sir Isaac Pitman and Sons, Limited, Parker Street, Kingsway, W.C.2. (140 pp. Price 7s. 6d. net.)*

Where statistics are concerned it is always easier to remember them when assisted by a map or chart, and the object of this book is to show by means of maps and charts not only the physical features of different countries and regions, but also the products of those regions and the races of people which inhabit them. Where applicable both figures and maps are given, the latter being designed to support the former by presenting a picture which can be carried more easily in the mind. The subjects dealt with include Regions of Production showing where different commodities are produced and different manufactures carried on, the Railway Systems and the Trade Routes; also the populations of different countries and towns with the physical features of the six great continents. As regards the British Isles, there is more detailed treatment, the principal industrial areas being shown with the statistics of the different occupations. The Atlas will be found useful to students of physical and economic geography, and will also serve as a reference book of geographical information.

Business Profits: How Computed and Assessed for Income Tax. *By Charles H. Tolley, A.C.I.S. London: Waterlow & Sons, Limited, Birchin Lane, E.C.3. (54 pp. Price 1s. 6d. net.)*

This is the first of a series of Income Tax Manuals which the author is preparing. The object of the manuals is to amplify and supplement the information given in the author's Income Tax Chart. The matter is well classified and indexed,

and examples are given of the working out of the figures in relation to adjustments between partners, the new basis of assessment, &c. There are chapters on deductions which are allowable and not allowable, and explanations as to new businesses and discontinued businesses, with notes as to the apportionment of assessment for the year of change.

SIR JOSIAH STAMP IN SCOTLAND.

Sir Josiah and Lady Stamp fulfilled some Scottish engagements last month.

On the 22nd ult. they were present at the launch of the first of the three fast cross-channel steamers of the London, Midland & Scottish Railway Company's service between Heysham and Belfast, built by Messrs. William Denny and Brothers, Limited, Dumbarton. The vessel was named the "Duke of Lancaster" by Lady Stamp. Mr. Maurice E. Denny, C.B.E., proposed the health of Lady Stamp, who replied in happy strain.

On the evening of the 22nd Sir Josiah lectured on "The National Income and its Meaning," to the Glasgow School of Social Study and Training. The meeting was held in the History Class-room of the University and was attended by an audience which filled the lecture room. Professor W. Scott presided in the absence of Principal Sir Donald MacAlister.

Common-Sense Thinking.

Sir Josiah Stamp, in the course of his lecture, emphasised that a realistic conception of the national income and its distribution was vital to every social worker, and every worker with a programme of reform in taxation or standard of living or wage systems, &c. Otherwise they would often find themselves doing elaborate theoretical work and attempting to make it practical in the field of the ridiculous. The realisation of the statistical limits and the economic forces at work in producing the aggregate income were essential to common-sense thinking on all social questions. If people were left without such a check to compute standards of life and fair wages by reference to what they thought just or desirable or physiologically necessary, they nearly always arrived at figures which, when brought to a total, amounted to more than the national income.

He gave two illustrations. The first related to an experience of the Dawes Commission. After computing the national incomes of several countries and arriving at the comparative income per head of the population, their next problem was to arrive at taxable capacity. For that purpose they had to determine the subsistence minimum which was regarded as having no taxable capacity. When a suitable subsistence minimum had thus been chosen to determine the taxable capacity of Germany the Americans exploded with mirth at the idea that anyone could support himself on such a figure. They were asked to state their figure of minimum subsistence, and when that was applied to Italy it was found that it would wipe out the whole of the national income of Italy. His second illustration was that of an Australian Commission which had conducted an inquiry regarding the basic living wage in that country. They had drawn up figures for the different districts, but the Government statisticians replied by return of post that the figures represented more than the whole of the national income of Australia.

Changing Monetary Measure.

The Lecturer went on to show how the changes in the price level automatically altered the monetary measure of the national income, even although total production and services were unaltered. A fall in price, he pointed out, redistributed it in favour of fixed interest receivers and many wage earners, and against business revival. If it went far it reacted on the total and caused unemployment.

Sir Josiah explained the various methods by which the income was computed, and the difference of view between different nations concerning the value of houses lived in by their owners, concerning stocks and shares increasing in value or interest on the national debt and war pensions, and said that some international standardisation was necessary.

Students were advised to cultivate the habit of thinking of the national income objectively as a flow of goods and service past a particular point during the year, and this would give them an insight into problems of distribution, the profitability or waste of taxation, the value of savings and their influence on future income, and the importance of organisation, the nature of advertising, or of foreign trade; the significance of disarmament and similar questions. For recent statistical details he referred to the work published by Professor Bowley and himself on the national income of 1924.

The lecture was interspersed with many happy anecdotes, which made it entertaining as well as instructive.

INCORPORATED ACCOUNTANTS' MASONIC LODGE.

The installation meeting of the Incorporated Accountants' Lodge, No. 4255, was held at the Hotel Cecil, London, on Tuesday, November 1st. The retiring Master, W.Bro. Henry Morgan, presided at the opening of the Lodge. His successor, W. Bro. Joseph Robinson, was installed by W.Bro. Marmaduke Widdowson, assisted by W.Bro. M. J. Faulks, P.M., P.A.G.D.C., W.Bro. Richard A. Witty, L.R., D.C., and W.Bro. F. E. Clements, A.D.C. The Worshipful Master invested his officers as follows:—Bro. James C. Fay, S.W.; Bro. W. C. Chaffey, J.W.; W.Bro. W. H. Payne, L.R., Treasurer; Bro. H. T. Gore Gardiner, Secretary; W.Bro. Richard A. Witty, L.R., Director of Ceremonies; Bro. A. Anderson, S.D.; W.Bro. E. G. Bourne, J.D.; W.Bro. F. E. Clements, P.M., Assistant Director of Ceremonies; W.Bro. H. J. Burgess, Almoner; Bro. Owen Stallwood, Assistant Secretary; Bro. Robert Ashworth, I.G.; Bro. C. W. Legge, Bro. R. E. Johnston, Bro. F. J. Nash, and Bro. W. A. Pearman, Stewards; and W.Bro. J. W. Yacomen, P.A.G.D.C., Bengal, Tyler.

The Worshipful Master invested W. Bro. H. Morgan as I.P.M. The Worshipful Master was invested with the Hall Stone Lodge Jewel and Collar by W. Bro. Sidney White, Assistant Grand Secretary.

At the banquet subsequently held there was a numerous gathering of members and visitors. The Worshipful Master, W.Bro. J. Robinson, proposed the Loyal and Masonic toasts and the toast of the Grand Officers, to which W. Bro. Percy Still, P.G.D., responded.

The toast of the Worshipful Master was proposed by W. Bro. Henry Morgan, I.P.M., and honoured with enthusiasm by the members.

The Worshipful Master proposed the toast of the Immediate Past Master, to which W. Bro. Henry Morgan responded. The toast of the Visitors was given by W. Bro. J. Paterson Brodie, P.G., Treas., Staffs., &c., and responded to by W. Bro. Frank S. Geylor, No. 165, W. Bro. Somerford, L.R., No. 1,598, W. Bro. A. Cook, No. 451, W. Bro. R. Simpson, P.M. Chartered Accountants' Lodge, Bro. Gore Gardiner replied to the toast of the Officers of the Lodge.

There was an excellent programme of music, and the proceedings throughout were most enjoyable.

Mr. A. E. Pugh, Incorporated Accountant, Newport (Mon.), has been appointed Secretary of the Newport Chamber of Commerce in succession to the late Mr. Cecil Acomb.

CHARTERED INSTITUTE OF SECRETARIES.

The annual dinner of the Chartered Institute of Secretaries was held at the Hotel Victoria on November 2nd. The President, Mr. Richard B. Pilcher, O.B.E. (Secretary of the Institute of Chemistry), occupied the chair, and was supported by a large number of members. Among those present were:—Right Hon. Lord Blanesburgh, G.B.E. (a Lord of Appeal in Ordinary); Professor Arthur Smithells, C.M.G., D Sc., F.R.S. (President, Institute of Chemistry); Sir Edward Wallington, K.C.V.O., C.M.G.; Sir John J. Burnet, R.A., R.S.A.; Sir Alfred Hopkinson, K.C., M.P. (Honorary Member); Hon. J. S. Smit (High Commissioner for Union of South Africa); Sir William Plender, Bart., G.B.E., J.P.; Dr. G. C. Clayton, C.B.E., M.P.; Sir Philip Pilditch, M.P.; Mr. Bernard Campion, K.C. (Recorder of Northampton); Brig.-General Arthur Maxwell, C.B., C.M.G., D.S.O. (Vice-President); Judge Shewell Cooper; Mr. E. R. Eddison, C.M.G. (Comptroller of Companies, Board of Trade); Mr. J. M. Gatti, J.P. (Chairman, London County Council): Mr. R. H. March (President, Institute of Chartered Accountants); Mr. Francis Morris, J.P. (Chairman, Metropolitan Asylums Board); Sir Joseph Burn, K.B.E. (President, Institute of Actuaries); Mr. Thomas Keens (President, Society of Incorporated Accountants and Auditors); Mr. Frederick Hyde (President, Institute of Bankers); Mr. W. G. Verdon Smith, C.B.E. (Vice-President); Mr. Montague H. Cox, J.P. (The Clerk, London County Council); Mr. A de V. Leigh, M.B.E. (Secretary, London Chamber of Commerce); Mr. A. A. Garrett, B.Sc. (Secretary, Society of Incorporated Accountants and Auditors); Mr. W. H. Coates, LL.B., B.Sc. (Econ.); and Mr. C. H. Carpenter, O.B.E. (Secretary of the Institute).

After the loyal toasts, the Right Hon. LORD BLANESBURGH, G.B.E., a Lord of Appeal in Ordinary, submitted the toast of the Institute. If people asked, said Lord Blanesburgh, who governed the country to-day, probably the answer would be the Civil Service; no doubt also it would be said that they governed well. Then, again, they were asked to explain what the Civil Service was. It might be said the Civil Service was a great secretary. The secretary, like the accountant, took all business, political and social knowledge for his sphere. If a secretary's work was well done it was almost impossible to exaggerate its effect. How many great industrial undertakings in this country to-day owed their position to the personality of their secretary? How many speeches by chairmen of great industrial undertakings would be unspoken but for the secretary? (Laughter.) How many reports of committees and Royal Commissions would be unwritten but for the secretary? How many reputations, not only of politicians, but even of literary men, would exist but for the secretary? In regard to the principal work of a secretary, it might be said that he was the liaison officer between his board and the staff. In many cases where suspicion existed between those who were regarded as being the masters of industry and their employés, the secretary was the channel by which views were exchanged between the two. In this way the peace which was so desired was secured. As industry was organised to-day, there was a great opportunity for the secretary.

The PRESIDENT, in reply, referred to the progress of the Institute, and said the strong position which it occupied was due to the labours of the Council, of his predecessors in the chair, and of their valued Secretary, Mr. C. H. Carpenter, O.B.E.

Brig.-General ARTHUR MAXWELL, C.B., C.M.G., D.S.O., Vice-President, proposed "Kindred Professions and Societies," to which responses were given by Mr. Bernard Campion, K.C., Recorder of Northampton, and Professor Arthur Smithells, C.M.G., D.Sc., F.R.S., President of the Institute of Chemistry.

Other toasts were "The Dominions Overseas," proposed by Mr. S. W. Gladwell, Past President, and responded to by the Hon. J. S. Smit, High Commissioner for the Union of South Africa, and "The Visitors," submitted by Mr. W. H. Stentiford, Past President, to which replies were made by Sir Alfred Hopkinson, K.C., M.P., and Mr. J. M. Gatti, J.P., Chairman of the London County Council.

AN ACCOUNTANT OFFICER IN THE ROYAL AIR FORCE.

Wing Commander C. P. Ogden, O.B.E., delivered a short address to the members of the Incorporated Accountants' Students' Society of London at Cordwainers' Hall on "The Career of an Accountant Officer in the Royal Air Force." Speaking first of the duties of such an officer, in amplification of Air Ministry Pamphlet No. 32—June, 1927—which had been widely circulated, he pointed out that the Royal Air Force organisation was interesting in itself, not being similar to either the Navy or the Army. The Force was organised into such units as squadrons, fleet air arm bases and flights, training schools for flying and every kind of specialist work, stores depots, repair depots for aircraft and mechanical transport, and so on, and the higher organisation was into commands (or areas), groups and stations. Corresponding with these formations accountant officers were employed both at stations for the current pay and stores work of the units, and at command and area headquarters for staff work, inspections, and that side of administration which specially involves finance and accounts. He himself had held the post of command accountant in two or three commands at home and abroad.

In war time the duties of an accountant officer in the Air Force comprised pay accounting (officers' and airmen's pay and allowances), miscellaneous cash services, and store accounting.

The Air Force had under its control most expensive stores of an extremely technical nature, and a highly organised system of accounting was necessary for its provision, receipt and issue, repair and consumption. It was very necessary to see that the stores were not wasted, and that there was proof of use in accordance with regulations. No detailed explanation was given of stores accounting in the Royal Air Force by the Lecturer in view of the fact that courses are given to selected candidates for commissions.

Royal Air Force cash accounting differed in many obvious ways from business accounting. It was based on Parliament voting a certain sum of money for the year ending March 31st under certain allotted heads and standing regulations. They were not allowed to spend more, but the Government was naturally gratified if they spent less. The expenditure was all classified under various headings—buildings, rents, pay, &c.—and they were not allowed to spend more than Parliament voted in any one year. Every penny spent had to be accounted for, and the accountant officer could therefore be a great factor in economy. The accounting was done to the Director of Accounts at Air Ministry, and everything that the accountant officer did was subject to audit. The cash account was audited once a month and the pay ledger quarterly; the stores audit was done by a travelling civil service auditor. Abroad the audit was carried out by a financial adviser, a civil servant attached to the command.

He had heard it said that the duties of an accountant officer were very boring, but that was not the case. The duties were most varied. There was never a day that something fresh did not crop up. He had been an accountant himself in civil life at one time, and he had no hesitation in saying that no part of his professional life had been so interesting as that spent in the service. The work was sometimes very hard and sometimes fairly easy—it depended on the circumstances of the moment—but it was quite hard enough to occupy an officer "a full time job." Apart from his ordinary duties, he was an adviser to the commanding officer of his unit, who needed all the assistance he could get in the domestic economy of the unit and the application of the financial and administrative regulations.

The pay of an accountant officer was good from the start—more than a youngster passing his articles could get in civil life—but, of course, caution would have to be exercised in early years. After the first year a rise came, and things were eased considerably. Later on the pay was still good. Service pay always looked less in comparison with pay in private life, but the Government gave a pension which should be regarded as deferred pay—a sort of superannuation fund. He wondered how many men could save in 25 to 30 years enough capital to provide, say, £400 to £500 a year pension

The pay was lower than in some of the other branches of the service, but that was because there was no appreciable flying risk. The officer drew "monetary allowances" for lodging, fuel and light, rations and servants, but issues were very often made "in kind," and his expenses in the mess were not very high—the daily rate of messing would average 3s. 6d. to 4s. a day. Apart from his pay he received free medical attention.

Royal Air Force accountant officers were serving in many interesting parts of the world, such as Malta, Egypt, Palestine and Iraq.

Officers in the Royal Air Force at home were given 61 days' leave per year if the exigencies of the service permitted it. Abroad they were granted one month's leave in the country and two months' out of the country, and if they could not take these two months in one year they could accumulate it up to six months. The work was quite hard, but the life was very good, and gave great opportunities for the enjoyment of sport, and, speaking personally, he would not go back to his private professional accounting for anything.

Scottish Notes.

(FROM OUR CORRESPONDENT.)

Glasgow Students' Society.

The second meeting of the session was held on the 2nd ult., when Mr. James Paterson, F.S.A.A., Secretary of the Scottish Branch, lectured on "Deeds of Arrangement in Scotland." Mr. J. Tannett Mackenzie, F.S.A.A., presided over a large attendance, and was supported by Mr. H. Walker MacGregor, F.S.A.A., Mr. Robert Fraser, F.S.A.A., Mr. W. L. Weir, B.L., solicitor, and others. After stating that the provisions for a deed of arrangement had been incorporated in the Scottish Act of 1856 from the English Bankruptcy Act, and describing the steps necessary to carry through a deed of arrangement, the lecturer pointed out the advantages of such a deed, both as regards rapidity of realisation or composition, and also as a great saving in the expenses attending an ordinary sequestration. He could not understand why this provision in Scots bankruptcy law had been so infrequently taken advantage of. At the close of the lecture a discussion took place on "Recent Examination Questions in Scots Bankruptcy Law."

Accountancy in Modern Business.

Professor William Annan, C.A., the new occupant of the Chair of Accounting and Business Method in Edinburgh University, took as the subject for his inaugural lecture "The Scope of Accountancy in Modern Business." After tracing the history and development of book-keeping and referring to the growth of joint stock companies, the lecturer referred to the necessity in modern business of a proper system of cost accounts. He pointed out that there could be no standard form of cost accounts which might be applied to any kind of business, but that there was no reason why each industry should not adopt a standard form of its own, just as the printing trade had done. The prime object of complete financial and costing records was to provide information about one's own business, but there was need for more information. When orders were plentiful, and competition negligible, there was a natural inclination on the part of the British industrialist to be secretive. Now it would seem as if employers were being forced to combine in self defence. Hence the trend towards amalgamations and increased activity amongst trade associations. He pointed out that the present Government was in favour of amalgamations, as was Mr. Snowden and the Labour members of the Committee on Trusts. Excessive competition was harmful to the worker, because it tended to reduce wages, and it was against the interests of the employer because it tended to reduce profits. On the other hand, combinations were harmful to the public if they encouraged monopolies, but useful for fighting foreign competition. Statistics showed that, through declining exports and increasing imports, the balance of trade was against Great Britain, and that they must look to an increase in exports of manufactured goods to save the situation. He showed how the beneficial effects of amalgamation could be, at least partly, secured by making more use of trade associations, and how the accountant could help in this matter, but that he could not initiate the work. He referred to the need for forecasting and budgeting in business, and the difficulty of doing so in this country at present through lack of information. For budgeting properly a trader or manufacturer required (1) statistics regarding the outside forces affecting, or which might affect, his business; (2) statistics regarding the operations of other firms in his own industry; and (3) statistics relating to his own particular business. Such information was available in America to a much greater extent than in this country, and if the experiences of other countries was to be accepted as a guide, the trade associations of this country would be standing in their own light if they did not take steps to obtain, and make use of, such information.

Shipyard Accounts.

On the 14th ult., Mr. Wm. H. Stalker, A.S.A.A., chief accountant of Messrs. Palmers' Shipbuilding and Iron Company, Limited, Jarrow-on-Tyne, addressed a meeting in Greenock, on the above subject, under the auspices of the Scottish Branch of the Institute of Cost and Works Accountants. Mr. James Brown, chairman of Scott's Shipbuilding and Engineering Company, Limited, presided over a large gathering of shipbuilding officials and others. After a general statement of shipyard accounting, Mr. Stalker referred to cost accounting, which he described as a skilful attempt to state accurately all the facts of cost in the manufacturing of articles. Analysis was the corner-stone of all costing systems, dividing into broad groups the labour, materials and processes required to produce the article, and then adding the indirect charges or oncost. This analysis was made and records kept to guide the management when making estimates to detect loss of time or waste of materials, and to enable a comparison to be made between the cost and selling price of each article. Going on to study in detail a system of accounts in a shipbuilding concern, Mr. Stalker said that the underlying principles on which the books were kept were precisely the same in both large and small shipyards, the only difference being that in the larger concerns a somewhat more elaborate system might be in force, and owing to the greatly increased bulk of work the clerical work was distributed over a greater number of staff, with the result that it was sectionised. Certain members of the staff were engaged in one portion only of the routine work. The importance of cost accounting had never been so fully recognised as at the present day.

Limited Accountancy.

Amongst recent registrations of joint stock companies in Scotland is one in which the business to be carried on is described as "accountants, financiers, moneylenders and pawnbrokers."

Notes on Legal Cases.

[The abbreviations at the end of each of the cases refer to the following law reports, where full reports of the case may be found. The Law Reports and other reports are cited with the year and the Division, *e.g.* (1925) 2 K.B.:—

T.L.R., *Times Law Reports*; *The Times*, *The Times* Newspaper; L.J., *Law Journal*; L.J.N., *Law Journal* Newspaper; L.T., *Law Times*; L.T.N., *Law Times* Newspaper; S.J. *Solicitors' Journal*; W.N., *Weekly Notes*; S.C., *Sessions Cases* (*Scotland*); S.L.T., *Scottish Law Times*; I.L.T., *Irish Law Times*; J.P., *Justice of the Peace* (*England*); L.G.R., *Knight's Local Government Reports*; B.& C.R., *Bankruptcy and Company Cases*.

COMPANY LAW.

In re National Benefit Assurance Company, Limited.

Rejection of Proof in Winding-up.

The Court of Appeal held that the liquidator had rightly rejected a proof by the English Insurance Company, Limited, in the winding-up of the National Benefit Assurance Company, Limited, in that the contract between the two companies in

respect of which the proof of debt was advanced was a contract of marine insurance, and no stamped policy of marine insurance was issued to the English Insurance Company as required by law, and therefore the contract was invalid.

(C.A.; (1927) 44 T.L.R., 14).

EXECUTORSHIP LAW, AND TRUSTS.

In re Hayward.

Persons entitled to undivided Shares in Property.

Sect. 35 of the Law of Property Act, 1925, provides that land held upon the "statutory trusts" shall be held upon trust to sell the same and to stand possessed of the net proceeds of sale, after payment of costs, and of the net rents and profits until sale after payment of rates, taxes, costs of insurance, repairs, and other outgoings, upon such trusts, and subject to such powers and provisions, as may be requisite for giving effect to the rights of the persons (including an incumbrancer of a former undivided share or whose incumbrance is not secured by a legal mortgage) interested in the land.

Clauson (J.), held that where property is held upon trust for sale and division of the proceeds amongst persons entitled in undivided shares and certain of the shares are settled, the trustees of such settlement are "persons interested" within the meaning of sect. 35.

(Ch.; (1927) L.J.N., 160.)

Maclean v. Smith.

Distribution of Estates of Intestate Persons.

A.S. conveyed and assigned her real estate to trustees, their heirs and assigns for ever, and also a mortgage debt and securities to the trustees, their heirs, executors, administrators and assigns upon various trusts. The ultimate trust (which in the events which happened came into force) was: "Upon trust to transfer or pay the same to the next of kin of the said A.S in the same way as if she had died absolutely possessed of the trust premises intestate and without having married. Throughout the trust deed, the realty and the personalty were treated as one unit. The question arose whether the heir at law or the statutory next of kin of the settlor became entitled to the real estate of the settlor.

It was held by the Court of Appeal, N. Ireland, that the next of kin were entitled.

(C.A.; (1927) N.I., 109.)

MISCELLANEOUS.

Milsted v. Hamp.

Agreement for Personal Service to last for Life.

The plaintiff agreed to employ the defendant and the defendant agreed to serve the plaintiff for three years and thereafter from year to year, to be subject to three months' notice by the plaintiff. The defendant was to devote the whole of his time to the business.

Eve (J.) held that the agreement was one-sided and unenforceable.

(Ch.; (1927) 71 S.J., 845.)

REVENUE.

Earl of Westmorland v. Commissioners of Inland Revenue.

Resettlement of Real Estate.

By sect. 74 (1) of the Finance (1909-10) Act, 1910, "any conveyance or transfer operating as a voluntary disposition *inter vivos* shall be chargeable with the like stamp duty as if it were a conveyance or transfer on sale, with the substitution in each case of the value of the property conveyed or transferred for the amount or value of the consideration for the sale."

The Court of Appeal held that under sect. 74 (1) the stamp duty must be computed on the value of the property conveyed or transferred, and not merely on the value of the interests taken by the reversioners to whom it was transferred.

(C.A.; (1927) W.N., 270.)

Dale v. Mitcalfe.

Meaning of "Benefit."

In pursuance of a settlement, the income of the share of the respondent, Mary Mitcalfe, to which she was contingently entitled on attaining 21 or marriage, was accumulated during her minority and added to the capital thereof, and the respondent on coming of age acquired a life interest in that share. During the period of accumulation income tax was paid each year in respect of the income of the share. The respondent claimed repayment of the income tax paid during such period.

It was held by the Court of Appeal, affirming the decision of Rowlatt (J.) (see *Incorporated Accountants' Journal*, July, 1927, p. 382), that the accumulations in question were for the benefit of the respondent within the meaning of sect. 25 of the Income Tax Act, 1918, even if she were not actually allowed to receive the corpus. The income from the corpus would be increased by the accumulations, and that would obviously be for her benefit.

C.A.; (1927) W.N., 271.)

Pickford v. Quirke; Pickford v. Inland Revenue Commissioners.

Carrying on Trade and Successive Adventures.

During the "boom" in the Lancashire cotton trade in 1919 the appellant and others engaged in the operation known as "turning over" a cotton mill, *i.e.*, acquiring a controlling interest in the mill, organising its administration and finances, and reselling it to a new company. The operation was successful, and the appellant joined other syndicates, composed partly of the same persons engaged in "turning over" three other mills. In each case a profit resulted to the appellant. On March 24th, 1923, the Additional Commissioners for the Division in which the appellant resided signed the book containing an estimated assessment upon the appellant to income tax under Schedule D for the year 1919-20. The book was not delivered to the General Commissioners until April 18th, 1923; notice was given to the appellant on May 5th, 1923, and the assessment was signed by the General Commissioners on September 5th, 1923.

It was held by the Court of Appeal, affirming the decision of Rowlatt (J.) (see *Incorporated Accountants' Journal*, September, 1927, p. 453), (1) that though each adventure of "turning over" a mill, taken singly, was not a trade, but a capital transaction, yet the succession of such adventures, in each of which the appellant took part, might constitute the carrying on of a trade, and the Special Commissioners on an appeal against the assessment were not estopped by their previous decisions from reconsidering the whole of the facts, and finding that the appellant in so doing was carrying on a trade on the profits of which he was liable to income tax and excess profits duty on the profits; (2) that the assessment was made in time, having been made when it was signed by the Additional Commissioners within the three years allowed by sect. 125 (2) of the Income Tax Act, 1918. The subsequent steps need not be within that time.

(C.A.; (1927) 44 T.L.R., 15.)

Ormond Investment Company v. Betts.

Foreign Possessions and Basis of Assessment.

Rule 1 of the rules applicable to Case V of Schedule D of the Income Tax Act, 1918, provides that tax in respect of income from stocks, shares or rents in any place out of the United Kingdom shall be computed on the full amount thereof on an average of the three preceding years "as directed in Case I." An income so arising had been received during a less period so that an average of three preceding years was not available as the basis of computation.

It was held by the Court of Appeal, reversing the decision of Rowlatt (J.) (see *Incorporated Accountants' Journal*, February, 1927, p. 182), that the words "as directed in Case I" referred to the Rules applicable to Cases I and II, as well as to the Rule applicable to Case I, and provided a basis of computation when the income had been received during a less period than the three preceding years.

(C.A.; (1927) 2 K.B., 326.)